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The Commonwealth of Massachusetts  
Massachusetts Criminal Justice Training Center  
at Agawam



WILLIAM F. WELD  
Governor

THOMAS C. RAPONE  
Secretary of Public Safety

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DONALD N. MAIA  
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IN-SERVICE TRAINING FOR PATROL OFFICERS

STUDENT MANUAL

OCTOBER 1994-JUNE 1995

GOVERNMENT DOCUMENTS  
COLLECTION  
MAY 11 1995  
University of Massachusetts  
Depository Copy

STUDENT NAME: \_\_\_\_\_

DEPARTMENT: \_\_\_\_\_

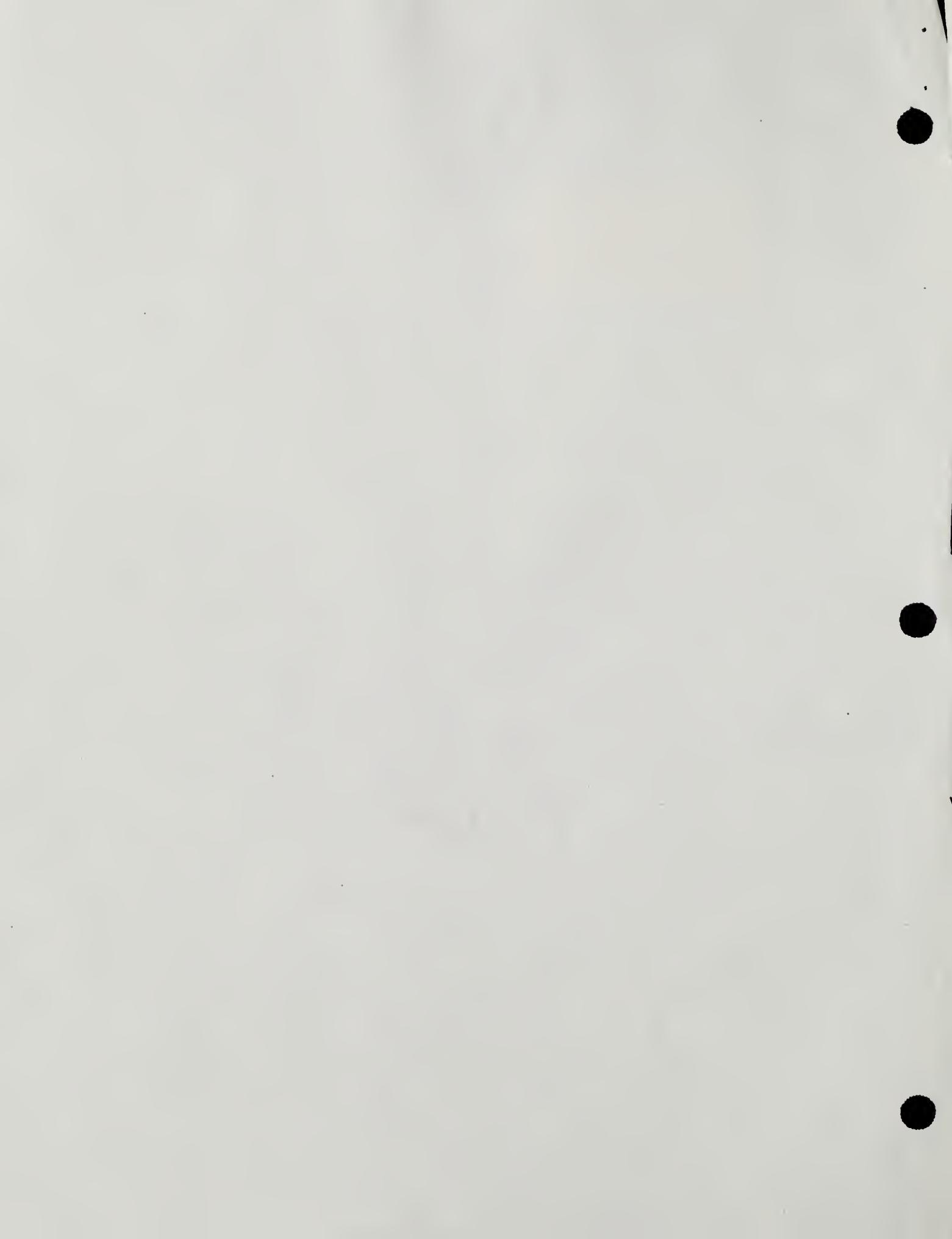
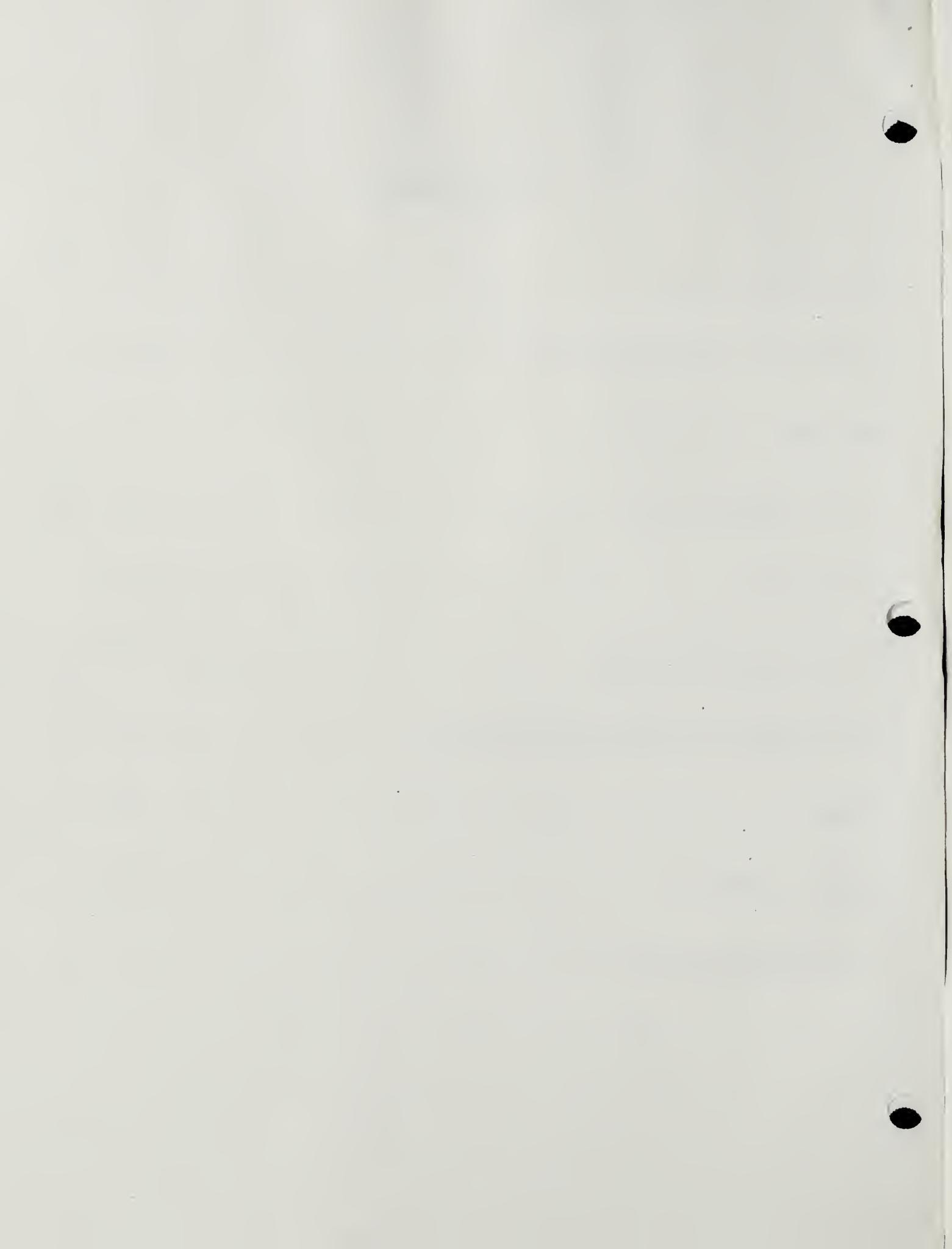


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## OVERVIEW OF PROGRAM

LEGAL UPDATE: A half day program designed to update the patrol officer in the latest judicial and legislative changes in the areas of criminal procedures, constitutional law and Massachusetts General Law.

MOTOR VEHICLE LAW UPDATE: A half day program designed for the patrol officer in the latest changes in the area of Motor Vehicle Law (Chapter 90). Also the new .08 BAC law will be a topic for discussion.

HANDCUFFING AND CONTROL: This half day program is designed to teach the officer how to control and handcuff a subject, and control and take off the handcuffs of a subject during arrest, detainment, and booking. Also including special in the safety of the officer and the subject. The first half day will be in the classroom and the second half will be the practical application in the gym. Officers are to bring duty belts, handcuffs and can wear P.T. wear.

Gangs: This half day program is designed to update and educate the officer on street gangs and (The Big Five) bike gangs in the area. Emphasis will be placed on identifying gangs and their characteristics, along with their symbolism and elicit activities with a concentration on local gangs and The Hell's Angels. Also this program will update the patrol methods used to deal with gangs.

ELDERLY ISSUES: This half day program will cover Myths & Facts of Aging, Fear, Victimization & Vulnerability of Elderly, Communication Skills, Elder Abuse Reporting Law, Protective Services, Domestic Violence, Abuse Investigation, Financial Exploitation, can also relate to crimes of people of all ages. This curriculum was prepared by the Office of the Attorney General.



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## IN-SERVICE TRAINING PROGRAM

OCTOBER 1994-JUNE 1995

## STUDENT RULES AND REGULATIONS

### RULE #1 APPEARANCE:

1-1 Students shall be well groomed in keeping with department standards.

1-2 Students shall wear their department uniforms to in-service training, with the firearms and duty belt being optional (as is required by their department policy). Students will be informed by Academy Staff ahead of time, if they are to wear special dress (ie. sweats) for a specific class; however, they are required to change back into their department uniform after that segment of training is completed (during their lunch time). Students who do not abide by this rule will be asked to leave the academy, and their departments will be notified accordingly.

Patrol In-service will offer Officer Survival classes on Wednesdays; therefore, officers will be allowed to wear physical training gear, ie. sweats, or jeans, and sneakers.

### RULE #2 BEHAVIORAL STANDARDS:

2-1 INTEGRITY - The student's integrity must be unquestioned and of the highest degree. Students must be truthful at all times and any form of cheating in academic work is cause for IMMEDIATE DISMISSAL.

2-2 SENSITIVITY - The students are expected to be sensitive to and have tolerance for the concerns, opinions, and backgrounds of others with whom they have contact, whether in the field or in the classroom.

2-3 EFFORT - The students are expected to apply themselves at their maximum effort at all times. They are to seek the achievement of excellence in all they do, whether academically, physically, or practically.

2-4 MANNER - Students are expected to conduct themselves in a professional manner - with decorum - at all times, whether in the classroom or on a field assignment.

2-5 INQUISITIVENESS - Students are to seek knowledge of things they do not know about. Questioning instructors is encouraged, so long as the students conduct him/herself in a respectful and sensitive manner.

2-6 ABILITY TO FOLLOW ORDERS - Students are expected to respond immediately to instructions and directions or instructors and training center staff. Students will be held accountable for their actions or lack of actions when a direction is given. Students are expected to adhere to their department's rules and regulations, those of the Massachusetts Criminal Justice Training Council, and any additional regulations promulgated by the in-service academy.

2-7 SMOKING - SMOKING IS ONLY ALLOWED OUTSIDE THE BUILDING OR IN INCLEMENT WEATHER, IN THE LOWER ALCOVES OF THE ENTRYWAYS LEADING TO THE OUTSIDE EXITS, OR THE FRONT PORCH. STUDENTS ARE REQUESTED TO DISPOSE OF THEIR SMOKING MATERIALS IN PROPER RECEPTACLES AND NOT ON THE GROUND.

2-8 BEVERAGES/FOOD - Beverages will be allowed in the classroom during classroom instruction. Room 108 has been designated as a lounge and vending machines containing food and beverages are available to all students. Instructors have the right to not allow consumption of beverages, if it interferes with the instruction. NO FOOD is allowed in the classroom during classroom instruction. Students are asked to dispose of their beverage containers and food wrappers in receptacles in the rooms.

2-9 SUNGLASSES - No sunglasses shall be worn in the classroom. Tinted prescription glasses may be worn in the classroom provided that the student verifies the necessity of such glasses by medical evidence.

2-10 ALCOHOL/DRUGS - While on duty at the Academy, or while on scheduled academy activity, NO STUDENT WILL USE OR POSSESS ALCOHOL IN ANY FORM. THIS INCLUDES LUNCH BREAK. Nor shall a student use, or be found in possession of any controlled substance as defined in Mass. General Law Chapter 94C, Section 31. VIOLATION OF THIS REGULATION SHALL BE GROUNDS FOR IMMEDIATE DISMISSAL FROM THE IN-SERVICE PROGRAM AND SUBJECT THE VIOLATOR TO DEPARTMENT DISCIPLINARY ACTION.

RULE #3 MEDICAL & PHYSICAL:

- 3-1 All students are required upon entry to inform the Academy Director if they are using any form of medication and necessity for it..
- 3-2 All students are required to report immediately, any injury or illness.
- 3-3 The Academy Director/Program Coordinator may dismiss a student for a class segment if he/she has reason to believe that the student's physical condition is such that the student cannot satisfactorily participate in required class exercise. The Academy Director/Program Coordinator shall notify the student's department of any such dismissal.

RULE #4 ATTENDANCE:

- 4-1 The hours of the in-service program shall be from 8:45 A.M. to 4:00 P.M., with 45 minutes for lunch (11:45-12:30). This includes in-service programs run on saturdays. Morning Sessions will start promptly at 8:45 A.M. and end at 11:45 A.M. Afternoon Session will begin promptly at 12:30 and end at 4:00 P.M. Students who are habitually late, will have their departments contacted of such.
- 4-2 In the event of sickness or other reason for an absence, the student shall notify his/her department in accordance with department policy. The student shall also notify the academy Director/Program Coordinator of the absence.
- 4-3 The training center staff will contact the officer's department regarding all absences.
- 4-4 To be eligible for a certificate of completion, all absences and academic deficiencies must be made up within ninety (90) days of the completion date of the program attended.

RULE #5 MISCELLANEOUS ACADEMY REGULATIONS:

- 5-1 ADMINISTRATIVE AREA - Students are not allowed in the administrative area unless given permission by the Academy Staff.
- 5-2 RECRUIT ACADEMY - Students shall avoid any contact with the police and county corrections recruits. Students should be aware of their presence while going to and coming from the lounge and restroom area. Students should try to keep the noise down when outside the recruit classrooms.

USE OF TELEPHONES AND MESSAGES - Any student wishing to use the training center telephones must first receive permission from the Academy Staff. Academy phones are restricted to business ONLY, and any long distance calls MUST be made collect or charged to a calling card. All non-emergency phone messages will be posted on the message board across the hall from the in-service training room. Emergency calls will be given to the student immediately. Training Center Staff is NOT RESPONSIBLE for making sure students receive messages.



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## IN-SERVICE TRAINING STUDENT RULES AND REGULATIONS

### STATEMENT OF COMPLIANCE

I have read the student rules and regulations for the Western Massachusetts Criminal Justice Training Center in Agawam and agree to abide by them.

---

Student's signature

---

date

---

Department



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## IN-SERVICE TRAINING PROGRAM EVALUATION

Facility: Agawam Academy

Dates: \_\_\_\_\_

### INSTRUCTIONS

Please rate the segments of your In-Service Training Program by placing a numeric value using the following Rating Scale in the appropriate spaces below corresponding to the segment and evaluation criteria. Please add any specific comments in the narrative section.

### RATING SCALE

5=Excellent      4=Above Average      3=Average      2=Fair      1=Poor

#### SEGMENT

#### EVALUATION CRITERIA

Instructor	Content	Handouts	AV Aids
[      ]	[      ]	[      ]	[      ]

#### Legal Update:

Comments: \_\_\_\_\_

[      ]      [      ]      [      ]      [      ]

#### Motor Vehicle Law:

Comments: \_\_\_\_\_

[      ]      [      ]      [      ]      [      ]

#### Handcuffing and control

#### Instructor #1:

Comments: \_\_\_\_\_

Instructor  
[      ]

Content  
[      ]

Handouts  
[      ]

AV Aids  
[      ]

Handcuffing and Control

Instructor #2:

Comments: \_\_\_\_\_

---

[      ]

[      ]

[      ]

[      ]

Gangs:

Comments: \_\_\_\_\_

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[      ]

[      ]

[      ]

[      ]

Elderly Abuse:

Comments: \_\_\_\_\_

---

[      ]

[      ]

[      ]

[      ]

Management Skills:  
(Supervisors only)

Comments: \_\_\_\_\_

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\*\*\*\*\*

Overall, how would you rate this program? [      ]

Overall, how would you rate the Staff? [      ]

Additional Comments: \_\_\_\_\_

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THANK YOU FOR YOUR COOPERATION IN COMPLETING THIS QUESTIONNAIRE.

PLEASE TURN IN TO ACADEMY STAFF ON THURSDAY AFTERNOON, AFTER YOU COMPLETE THE EXAM. AT ANY TIME DURING THE TRAINING, FEEL FREE TO SPEAK TO THE COORDINATOR OR ACADEMY DIRECTOR ABOUT YOUR CONCERNS OR COMMENTS.

# LEGAL UPDATE

IN-SERVICE

LEGAL UPDATE

CHIEF VICTOR J. MILANI (RET.)

AGAWAM ACADEMY  
1994-1995

THIS IS NOT AN EXAMINATION, BUT INSTEAD A PERSONAL ASSESSMENT OF YOUR OPINION REGARDING VARIOUS LEGAL ISSUES. THIS HANDOUT WILL SERVE AS AN OUTLINE FOR OUR DISCUSSION OF CURRENT LEGAL QUESTIONS.

PLEASE INDICATE IN THE SPACE PROVIDED IF THE STATEMENTS ARE TRUE OR FALSE.

1. A police officer may ask an armed robbery suspect "Where is the gun" upon arrest without advising the suspect of his Miranda Rights.
2. Undercover law enforcement personnel must mirandize suspects who are incarcerated prior to asking any questions.
3. A police officer in Massachusetts has a greater latitude to stop and frisk under the state statute (C. 41., sec. 98) than the Federal standard (Terry v. Ohio).
4. Under the Federal standard to stop and frisk (Terry v. Ohio), a police officer can frisk all clothing worn by the suspect for a weapon.
5. A Threshold Inquiry is always permitted if the officer suspects an individual of "unlawful design" by his/her suspicious behavior.
6. Evidence discovered while conducting a pat down for weapons may be seized provided it has the characteristics of a weapon.
7. As part of a Threshold Inquiry, an officer may detain a person for a short time to permit an eyewitness to be brought to the scene to possibly make an identification.
8. The "Plain Feel Doctrine" now expands a Massachusetts officer's ability to seize evidence pursuant to a pat frisk that the officer recognized by his/her feel of touch as contraband.
9. The major distinguishing characteristic between a stop and a seizure is the amount of restraint used to detain the individual.

10. A motor vehicle stop commences when the officer turns on his cruiser lights and siren, since the officer has made his intentions known to the suspect.
11. A police officer approaching a subject in a public place and asking him/her if they would be willing to answer a few questions, is always a stop.
12. A police officer asking a subject to take his hands out of his pockets, constitutes a stop.
13. Blocking an operator's vehicle with a single cruiser escalates a motor vehicle stop to a seizure of the operator.
14. The use of handcuffs on a suspect to conduct a threshold inquiry during a Terry-Stop, always translates to a seizure.
15. Stopping and detaining motorists on a random basis to check their license and registration is not improper.
16. A stop lasting more than five to ten minutes always translates to a seizure.
17. A stop where a subject gives evasive answers, conflicting stories, and refuses to answer threshold inquiry questions may result in an arrest based on probable cause.
18. Two critical elements of custody are: coercive atmosphere, and belief you are not free to leave.
19. Police are required to Mirandize all persons they question at a police station.
20. Constructive questioning by the police is undertaken to elicit an incriminating statement.
21. Requesting physical evidence from a suspect is considered non-testimonial evidence.
22. Police must always Mirandize before requesting non-testimonial evidence.
23. Spontaneous remarks by an individual are not admissible if he/she has not been Mirandized.
24. Private citizens as well as police must Mirandize an individual prior to asking accusatory questions.
25. Any citizen who is rewarded for his cooperation with the police is considered an "agent".

- 26. The police must consider a person's age and educational background in order to have him/her waive their Miranda Rights.
- 27. A Miranda waiver might be challenged on the basis of "knowingly" if it was made at a time when the subject was intoxicated.
- 28. Police may use tricks to prod a person into waiving his/her Miranda Rights.
- 29. It is always permissible to advise a Mirandized suspect that he/she will feel better if they tell the truth.
- 30. Statements obtained from a suspect in violation of Miranda are inadmissible but can be used to support probable cause to arrest.
- 31. An admission is an acknowledgment by an accused of his/her guilt.
- 32. Many witness identifications of suspects are ruled inadmissible based on suggestive comments made by police to the witness.
- 33. If a suspect is apprehended shortly after the commission of a crime, the suspect may be transported back to the crime scene or the witness transported to the suspect for identification.
- 34. A witness may be taken to a place to view a suspect's motor vehicle alleged to have been used in a crime provided it is parked in a public place.
- 35. Police can arrange a chance encounter between a witness and a suspect for identification purposes.
- 36. Face-to-face identifications are permissible when the suspect or witness is in critical condition or near death.
- 37. Two-way mirrors used for a witness to identify a lone suspect is always permissible.
- 38. A line-up suspect can be asked to wear certain clothing, speak, take positions, or move in a certain way.
- 39. A suspect has a legal right to refuse to participate in a line-up.
- 40. A suspect does have the right to have counsel present when a witness is shown a photo array including his/her photograph.

41. Police suggestiveness, and witness reliability are the two most important factors the court considers in ruling on the admissibility of identification.
42. The most important factor in the witness reliability test, is the witness' opportunity to view the criminal at the time of the crime.
43. Fingernail scrapings may be taken from an arrestee during a search incident to arrest.
44. A test to detect blood may be performed on a suspect's body or clothing incident to arrest.
45. An example of a juvenile detention not constituting an arrest is placing a youth in protective custody for being present where class A, B, or C drugs are found.
46. Status offenders must not be held in secure detention.
47. An example of non-secure custody is detaining a juvenile in an unlocked, multi purpose area.
48. Status offenders may never be handcuffed.
49. An arrested thirteen year old juvenile may be securely detained.
50. A probation officer of the District Court must always be notified when a juvenile between seven and seventeen years of age is arrested.
51. An arrested child between fourteen and seventeen may be detained and not released to his/her parents if the arresting officer makes that request in writing.
52. A fifteen year old juvenile arrested for possession of alcohol can be securely detained.
53. If a fifteen year old juvenile status offender refused to remain in non secure custody, he/she may be placed in a DYS approved locked area.
54. Juveniles at least 14 years of age who are arrested for delinquency may be securely held in a DYS approved locked area for up to eight hours.
55. Juveniles accused of felonies whom the court has decided to try as adults, are not covered by a maximum time period they can be held in secure detention.
56. Whenever a juvenile between the ages of seven and seventeen is arrested, to waive his/her Miranda Rights, he must have an actual consultation with an adult.

The information contained with in the next handout section will not be covered by the instructor nor will it appear in test form. However the information is relevant and should be read for ones own knowledge.

## **PUBLIC DUTY RULE LAW**

In January 1994, the Massachusetts legislature enacted a number of new exceptions to the Massachusetts Tort Claims Act<sup>1</sup> (MTCA). The enactment<sup>2</sup>, while considered by many to be the formal adoption of the prior judicially-created "public duty rule"<sup>3</sup>, is, in fact, more expansive in several respects.

### **THE NEW LAW: AN OVERVIEW**

Chapter 495, section 57 of the Massachusetts Acts of 1993 amends Chapter 258, Section 10 of the General Laws. The legislation contains three primary sections. The first section consists of five separate provisions which shield municipalities in negligently performing "core" functions -- including licensing and permitting<sup>4</sup>, inspections<sup>5</sup>, fire protection<sup>6</sup>, and police protection<sup>7</sup>. The second section of the legislation creates an exception from liability for a public employee's passive negligence for failing to avert or otherwise prevent harmful consequences created by a private individual. The third section, is, in effect, a subsection of the second. It enumerates those situations where a "failure to avert" may support a cause of action.

### **THE NEW LAW: THE SPECIFICS**

Under the new legislation, a special duty can never be found if the negligence which caused a plaintiff's injury involved one of the express provisions contained in the first part of the new act. Simply stated generally municipalities are absolved from liability for negligently performing one of the functions expressly immunized by statute.

The fourth exemption is the one which was enacted to absolve police departments from most liabilities which arise in the daily conducting of police work. Rather broad in its coverage, it precludes:

Any claim based upon the failure to establish a police department or a particular protection service, or if police protection is provided, for failure to provide adequate police protection, prevent the commission of crimes, investigate, detect or solve crimes, identify or apprehend criminals or suspects, arrest or detain suspects, or enforce any law, but **not** including claims based upon the negligent operation of motor vehicles, negligent protection or care of persons in custody, or as otherwise provided in exception 1 to immunity provision number 6. (Emphasis added.)

The legislature left open the possibility for claims which arise out of the above-stated activities if that conduct is so egregious that it rises to the level of "gross negligence". Gross negligence is defined as "the omission of even such diligence as habitually inattentive and careless men do not fail to exercise in avoiding danger to their own person or property".<sup>8</sup>

With regard only to the exemptions for failure to inspect, or to provide fire or police protections, a municipality may nonetheless be liable for one of the expressly exempted activities if the plaintiff's case is:

Based upon **explicit or specific** assurances of safety or assistance, **beyond general representations** that investigation or assistance will be or has been undertaken, made to the direct victim [personally] or a member of his family or household by a public employee, [so long as] the injury resulted in part from reliances on those assurances. (Emphasis added.)

Since passive failure to avert negligence by a private actor has been the nucleus of several Tort Claims Act cases, the legislature created a sixth exemption to the public duty rule. It is intended to shield municipalities from liability for the negligent acts of private citizens which a public employee fails to recognize or otherwise act to avert plaintiff's injuries. Specifically, it immunizes a municipality for:

Any claim based upon an act or failure to act to prevent or diminish the harmful consequences or tortious conduct of a third person, which is not originally caused by the public employer or any other person acting on behalf of the public employer.

Failure to avert a condition or situation created by a third party, however, may make a municipality potentially liable if any of the following four exceptions apply. The passive failure to act exemption does not apply to:

(1) Any claim based upon **explicit and specific assurances of safety or assistance, beyond general representations** that investigation or assistance will be or has been undertaken, made to the direct victim [personally] or a member of his family or household by a public employee, [so long as] the injury resulted in part from reliance on those assurances. A permit, certificate or report of findings of an investigation or inspection shall not constitute such assurances of safety or assistance; (emphasis added)

(2) any claim based upon the intervention of a public employee which causes injury to the victim or places the victim in a worse position than he was in before the intervention;

(3) any claim based on negligent maintenance of public property; and

(4) any claim by, or on behalf of, a patient for negligent medical or other therapeutic treatment received by the patient from the public employee.

# UNDERCOVER LIQUOR PURCHASE GUIDELINES

While acting reasonably in the performance of their duties, police officers may be justified in engaging in what might otherwise constitute criminal conduct without thereby incurring criminal responsibility. This is commonly referred to as the *law enforcement justification* defense. This is commonly referred to as extended to civilians acting on behalf of or under the direction of law enforcement officers. The Massachusetts Alcoholic Beverages Control Commission, in deciding a case involving the Cambridge Police Department, upheld the use of undercover minors and issued informal guidelines for such "sting" operations.

## THE CAMBRIDGE CASE

The Cambridge Police Department used underaged city employees, enrolled in law enforcement programs and trained at the Cambridge Police Academy. News articles were used to alert merchants that a "sting" operation was going to be conducted. Thereafter the department conducted an initial sting at all licensees in a targeted area. A follow-up sting was undertaken at all liquor establishments which made a sale during the first round. Of the twenty-nine establishments first approached, eighteen sold alcohol to the undercover purchasers. Seventeen of the eighteen made the sale in the second test.

## COMMISSION GUIDELINES

The Commission cited its history of approving local authority use of *stings* as a cost effective form of law enforcement. It noted that it has sought to establish guidelines to preclude entrapment and assure fairness. These include:

- the investigation be conducted under the supervision of law enforcement personnel;
- the duty of the agent to refrain from falsifying his age or using false identification; and
- the agent's obligation to leave the premises if asked for proof of age.

## REASONABLE PROCEDURES

The Commission found that the procedures used by Cambridge were reasonable. This does not mean that strict adherence to such procedures is required of other departments. Nor does it mean that a department is not free to adopt different (whether more or less extensive) procedures so long as they are in keeping with the three Commission guidelines.

The following procedures were utilized by Cambridge in this case.

- Pre-sting publicity.
- Preliminary and follow-up stings.
- Use of city employees enrolled in law enforcement programs and trained at the Cambridge Police Academy (*could be similar to Cadets?*).
- Undercover buyers were not chosen in an attempt to trick licensees or to achieve a higher rate of violations.
- Undercover buyers did not appear old enough to make a request for an ID unnecessary or unreasonable.
- Prior to the sting the undercover buyers were instructed to indicate that they had no ID (if asked), to leave the premises if asked for identification and not to consume any alcoholic beverages if served.
- Undercover buyers were checked to ensure that they were not carrying any identification or other monies than that given to them by the police officer in charge of the operation.

## ENTRAPMENT

Undercover operations may result in a defendant raising the defense of entrapment, where the police or their agents performed an otherwise unlawful act. So long as the officers' or their agents' actions were not so outrageous or overburdening that they virtually *induce* criminal conduct, the defense of entrapment is not likely to succeed.

## FEDERAL FAMILY AND MEDICAL LEAVE ACT

A new Federal law grants certain employees leave for child birth, adoption or foster care, as well as for the care of the employee or immediate family members for up to twelve weeks per year. In order to be eligible to take advantage of the Act's leave provisions, an employee must have been employed for at least twelve (12) months by the municipality and must have actually worked for at least 1,250 hours during the previous twelve (12) month period. An *eligible employee* is entitled to a total of twelve (12) work weeks of leave during any twelve (12) month period.

### REASONS FOR LEAVE

#### 1. **BIRTH, ADOPTION AND/OR FOSTER CARE LEAVE**

An employee is only entitled to leave in connection with the birth, adoption or foster care placement of a child with an eligible employee during the twelve (12) month period beginning on the date of such birth, adoption or placement. Such leave must be taken consecutively (i.e., up to twelve (12) work weeks in a row) unless the employer and employee agree it may be taken intermittently.

The employer may require (or an employee may elect) that an employee use any accrued paid vacation, personal leave or family leave for any part of the twelve (12) week leave period.

#### 2. **CARING FOR SICK FAMILY MEMBER**

An *eligible employee* may take leave to care for a specified family member (spouse, son, daughter or parent) who has a *serious health condition* which includes an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility; or continuing treatment by a health care provider.

### **3. SICK OR INJURED EMPLOYEE**

An *eligible employee* is entitled to up to twelve work weeks of sick or injured (not counting work-related) leave during any twelve (12) month period, regardless of any limitation imposed by the employer's personnel policies (ordinances or by-laws). If the employer provides paid leave for fewer than twelve (12) work weeks, the additional weeks of leave necessary to attain the twelve (12) work weeks of leave may be provided without compensation. Such leave may be taken either consecutively or intermittently.

### **JOB PROTECTION AND BENEFITS SECURITY**

With certain limited exceptions (as specified below), upon return from leave under the Act, an employee is entitled to be restored either to the same position held before the leave, or an equivalent position.

No benefit accrued prior to the start of approved leave will be lost as the result of such leave. However, the employee is not entitled to accrual of any seniority or employment benefits during any period of leave; or any right, benefit, or position of employment other than those to which the employee would have been entitled if the employee had not taken the leave.

### **HEALTH BENEFITS**

An employer is required to maintain coverage under any *group health plan* throughout the term of the leave at the level and under the conditions of coverage which would have been provided if such employee had continued to work.

## RECORDING AND DISCLOSURE OF CONTAGIOUS DISEASES

There are three primary concerns relative to the recording and disclosure of a prisoner/detainee's HIV or other communicable disease status that are paramount in the police context. First, what ability do police officers and departments have to require an HIV or other medical test of an arrestee/detainee (hereinafter detainee)? Second, once the HIV or communicable disease status becomes known to the department, what rights or obligations do they have to notify other police officers who may come in contact with such individual? Third, how can a police department maintain that information without running afoul of confidentiality rights of the detainee?

### **NON-DISCLOSURE: RIGHT TO PRIVACY**

There is no express provision in the Constitution or its amendments which affords protection against the non-disclosure of contagious disease test results. Nonetheless, those persons who challenge a department's disclosure are likely to do so based on the *illusive* fundamental right to privacy. There is evidence to suggest that the United States Supreme Court will also find that the right to privacy extends to one's medical records.

### **PROTECTING OFFICERS**

The nature of police work requires officers to have direct contact with individuals who may be infected with contagious diseases. Some of these people will exhibit no outward signs of their diseases. The HIV virus is transmitted through body fluids (blood, semen and vaginal secretions) and, although no reported cases of infection by saliva have occurred, HIV is detectable in saliva. Similarly, other contagious -- if not so fatal -- diseases

may be transmitted by the kind of contact that officers have with persons in custody. It is important, then, for officers to be warned of a person's contagiousness in order to take reasonable precautions to avoid becoming infected.

### **PROTECTING PRISONER'S PRIVACY**

In addition to the constitutional and statutory right of privacy discussed above, a person infected with a contagious disease has a right to be free from exposure to the stigmatizing effects and discriminatory treatment which often result from disclosure of HIV and other contagious disease infection. This discriminatory treatment may extend to the families of infected individuals as well.

### **PROTECTING THIRD PARTIES**

Courts have imposed an affirmative legal duty on various professional service providers to protect certain third parties. The same duties imposed on health and social service providers may someday extend to police officers as well. Even if no such legal obligation is imposed on the police, common sense and good department policy should dictate that the needs of such third parties be considered in procedures for recording and disseminating information which may affect the health and social well-being of third parties.

### **STATUTORY DISCLOSURE OPTIONS**

Many states have enacted statutes governing the disclosure of the fact that an individual has tested positive for the HIV virus. Presently, Massachusetts has no such statute.

Depending upon the statute involved, police in other states have been faced with a variety of court decisions when the issue of disclosing HIV or AIDS information has been involved.

## JUVENILE DIVERSION

### *Status Offenders*

Chapter 119, section 39H of the General Laws prohibits the *secure detention* of status offenders in a police station or lock-up facility.

The important distinction, in order to comply with the law, is that while it is permissible for the police to arrest and keep the status offender in custody, it must not be *secure* custody.

**Note:** No child under 14 years of age may be placed in a cell or otherwise securely detained for any reason. However, such child may be held in a safe environment pending suitable disposition.

### *Arrested Individuals*

When a child between the ages of 7 and 17 is arrested, with or without a warrant, the officer in charge of the station must notify the probation officer and the child's parent or guardian. Such juveniles shall be released unless the arresting officer requests in writing that he be detained, and the court issuing a warrant for the arrest of such child directs in the warrant that he be held in safekeeping pending his appearance in court or a probation officer directs that such child be detained.

**NOTE:** This should not be construed to deny the juvenile the right to bail.

Notice of detention shall be given to the parent(s) or guardian or person with whom the child resides and to the probation officer.

A juvenile between 14 and 16 years of age who is arrested and is charged only with a status offense (CHINS) may not be placed in a cell or otherwise securely detained.

## **FEDERAL LAW**

Under the applicable federal law, the use of adult jails and lockups for the incarceration of juveniles, with limited exceptions, is prohibited.

### ***Deinstitutionalization of Status Offenders***

Non-secure alternatives must be found for juveniles who are charged with or who have committed acts that would not be crimes if committed by adults. The federal law specifies that a juvenile taken into custody for possession of alcohol shall be considered a status offender.

### ***Sight and Sound Separation***

Juveniles must be sight and sound separated from adult prisoners. However, these restrictions do not apply to juveniles 14 years of age or older whom the court has decided to try as adults. They may be placed with either other juveniles or with adult prisoners.

### ***Jail Removal***

Juveniles at least 14 years of age who are arrested for delinquency may be securely held in DYS approved juvenile detention area for up to six (6) hours. This period is to allow time for identification, investigation, processing, release to parents, or transfer to a juvenile facility or court.

Juveniles accused of felonies whom the court has decided to try as adults are not covered by the federal law. However, should the court decide to try a juvenile as an adult for a non-felony, such child may never be held in secure custody for more than six (6) hours.

## **REPORTING REQUIREMENTS**

Juvenile records must be maintained separately from adult offender records. In addition to any departmental records, a Juvenile Docket Sheet must be completed and submitted monthly to the Massachusetts Committee on Criminal Justice.

## BRADY BILL

The interim provisions of the "Brady Handgun Violence Prevention Act" are effective February 28, 1994 and continue for five years, and they generally require a licensed firearms importer, manufacturer or dealer to wait five business days before selling a handgun to a person not licensed under federal law. During the five day waiting period, the local police chief would have to conduct a background check on the prospective purchaser, including research in whatever state and local record keeping systems are available and in a national system designated by the U.S. Attorney General, to determine the purchaser's eligibility to acquire the handgun.

The transferor submits a transferee's statement containing the following:

- the transferee's name, address, and date of birth
- a statement that the transferee
  - (i) is not under indictment for, and has not been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year
  - (ii) is not a fugitive from justice
  - (iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);
  - (iv) has not been adjudicated as a mental defective or been committed to a mental institution;
  - (v) is not an alien who is illegally or unlawfully in the United States;
  - (vi) has not been discharged from the Armed Forces under dishonorable conditions; and

- (vii) is not a person who, having been a citizen of the United States, has renounced such citizenship.
- the date the statement is made
- notice that the transferee intends to obtain a handgun.

If the chief determines that an individual is ineligible to receive a handgun, he shall provide a written statement of the reasons for such determination within twenty business days after receipt of a request for reasons from the individual.

If the purchaser is determined to be eligible, the records generated by the background check are to be destroyed within twenty business days.

A chief who provides criminal history background information is not subject to a civil action for damages for either failing to prevent the sale or transfer of a handgun to an ineligible person or for preventing the sale or transfer to an eligible person.

There are various exceptions to the waiting period, including:

- The prospective purchaser presents to the transferor a written statement from the local police chief that the purchaser needs the handgun because of a threat to the life of the purchaser or any member of his household.
- The prospective purchaser presents to the transferor a permit allowing the possession of a handgun, if the permit was issued not more than five years earlier by the state in which the transfer is to take place and if the state requires background checks prior to the issuance of the permit.

Under the permanent provisions of the Act, the five day waiting period is to be replaced by a "national instant criminal background check system" to be established within five years by the U.S. Attorney General.

## PROBABLE CAUSE DETERMINATION RULES

The Supreme Judicial Court ruled in 1993 that individuals who are arrested without a warrant and held in custody are entitled, pursuant to Article 14 of the Massachusetts Declaration of Rights, to a probable cause determination within 24-hours of their arrest. *Jenkins v. The Chief Justice of the District Court Department*, 416 Mass. 221, 619 N.E.2d 324 (1993).

The Supreme Judicial Court approved a court rule, effective July 1, 1994 to implement the *Jenkins* decision, entitled Trial Court Rule XI, Uniform Rule for Probable Cause Determinations for Persons Arrested Without a Warrant (see Trial Court Administrative Order No. 94-5).

On weekend days and holidays, the following probable cause determination procedures are in effect:

- The clerk-magistrate of each district court (including the Boston Municipal Court) shall ensure that a clerk-magistrate, assistant clerk, temporary clerk-magistrate or temporary assistant clerk is available to make probable cause determinations for persons arrested without a warrant and held in custody without an outstanding warrant.
- Probable cause determination requests involving the alleged violation of a domestic violence restraining order shall be referred to the Judicial Response System.
- The assigned clerk shall be available to make probable cause determinations at the request of the police from 9:00 a.m. to 1:00 p.m. and from 2:00 p.m. to 5:00 p.m. on every weekend day and holiday.

- Since probable cause determinations may be made by telephone, clerk-magistrates shall provide to each police department within their jurisdiction the telephone number or pager number of each clerk assigned to make probable cause determinations on the weekend days and holidays.
- Probable cause determinations shall be made in an *ex parte*, non-adversary and informal manner prior to arraignment and appointment of counsel.
- Only information submitted under oath may be considered by the clerk, but such information may be either oral or written.
- Clerks shall promptly reduce their determinations to writing on a new "Determination as to Probable Cause" form and shall mail copies of the completed form the next business day to the court, the police department, and the Administrative Office of the Trial Court.

On weekdays, the following probable cause determination procedures are in effect:

- Each clerk-magistrate shall establish a weekday procedure by which the police identify persons arrested without a warrant, with no outstanding warrant, who have not been released on bail and have not received a prior probable cause determination. The clerk shall provide such persons with probable cause determinations in an *ex parte*, non-adversary and informal manner prior to arraignment and appointment of counsel.
- The clerk shall promptly reduce the determination to writing on the appropriate form.

## COMMUNICABLE DISEASE TESTING OF ARRESTED PERSONS

The nature of police work involves exposure to individuals who may be infected with contagious diseases. Officers who have reason to believe they may have been so exposed will want to confirm such exposure and take remedial action; if possible.

Individuals have a Fourth Amendment right to be free from *unreasonable* searches and seizures. The traditional rule requires that police officers demonstrate *probable cause* in order to conduct a search, especially in the criminal law area. However, there is an emerging *special needs* exception to the probable cause requirement.

As it has done in other constitutional challenges, courts appear to have adopted a *balancing test*. The Supreme Court has not yet decided a case involving a compelled blood test to detect an infectious disease in someone who might have infected a police officer. However, a lower federal court upheld the compelled AIDS testing of a nurse who was known to have had a homosexual relationship with an AIDS victim. It is logical to conclude that where the police can demonstrate that an officer has come in contact with a person in a way which is likely to involve the transmission of disease if the individual is, in fact, infected with a contagious disease, courts will find that the officer's need to know outweighs the individual's right to privacy.

### LEGITIMATE NEEDS OF THE POLICE

Generally, where a disease is susceptible to treatment, the sooner treatment is started, the greater is the likelihood of cure. Even where no cure exists (e.g., HIV), officers who become aware of exposure, and

certainly where infection results, will alter lifestyles and take steps to prevent infecting others. While it is possible to determine whether an officer has been infected with most diseases by testing the officer, this is not always possible immediately following exposure -- especially in the case of HIV. The virus has a typical latency period of from two weeks to three months after infection when the disease cannot be detected, but it can take as long as thirty-six months. While an infected officer may have no way of detecting the virus during this latency period, he is capable of transmitting the disease to others. Moreover, there is a real chance for false negative test results, especially during the latency period.

## **BLOOD TESTING LEGISLATION**

Several states have enacted statutes providing for mandatory blood testing for HIV infection, generally involving assaults on police officers or other situations where bodily fluids are exchanged. The following will be proposed by the Massachusetts Chiefs of Police Association:

*Any person who is arrested or placed in protective custody, or against whom a criminal complaint is filed by a police officer, may be compelled to submit to a medical examination, including but not limited to a blood test, where a justice of either the District or Superior Court Department of the Trial Court determines that there is probable cause to believe that a possible transfer of blood, saliva, semen, vaginal or other bodily fluid took place between such person and a police officer in the performance of his duties.*

*Where the test results indicate the presence of a contagious disease, the police officer shall be so notified forthwith.*

## ONE-TRIAL SYSTEM

Effective January 1, 1994, the trial *de novo* or "two trial" system for criminal cases in the Massachusetts District Courts was eliminated.

### CHANGES AFFECTING POLICE DEPARTMENTS

Changes are expected in virtually all aspects of the criminal process, from discovery and pretrial conference procedures to guilty plea procedures and probation surrenders. Many of the details are yet to be worked out by the various judicial committees assigned to assist in the transition. Therefore, the exact details of how the new process will affect police are not known completely at this time. The following is an excerpt from the July 23, 1993 Memorandum from Chief Justice Zoll to all personnel of the District Court:

#### 1. *Disposition at arraignment*

Early disposition of these cases will be encouraged.

#### 2. *Police statements*

The filing by police of a statement regarding an arrest is expected to be required for the issuance of a complaint following that arrest. The purpose is to provide the court and the parties with basic information about the case at arraignment. Such information can be essential for several purposes, including bail, discovery orders and early disposition.

#### 3. *Discovery orders at arraignment*

The new law provides for expanded mandatory discovery.

#### 4. *Pretrial conference between the parties*

The plan is expected to require the parties to conference the case prior to appearing at the pretrial conference hearing, and

to come to that hearing with a tender of a plea, if possible, or not less than a completed and signed pretrial conference report. A detailed report form will be provided to the parties at arraignment.

**5. *Procedures for tender of plea***

The new law ensures the defendant's right to tender a plea of guilty, or an admission, on terms either agreed upon, or not agreed upon, by the prosecution. If the court rejects the terms, the defendant may withdraw the plea and go to trial. In rejecting the terms, the court can indicate terms that would be acceptable.

**6. *Pretrial motions***

The new law requires that discovery motions be heard and resolved prior to the defendant's decision on whether to waive jury.

**7. *Scheduling of trials***

Defendants who desire a trial can waive jury after the pretrial conference and receive a bench trial. Where the defendant has unsuccessfully tendered a plea and the case is before a court with no jury session and only one judge usually assigned, the jury-waived case will be sent to another court unless the defendant also waives the right to be tried by a judge other than the one who rejected the plea.

If the defendant does not waive jury, the case will be scheduled for trial, in the same court if a jury session is available there, or in another court where a jury is available.

**8. *Unified statewide probation surrender procedure***

It is planned that, if a defendant brought before the court on a new charge is on probation in another District Court, the "new" court will be authorized to serve a notice of a probation surrender hearing at arraignment on the new charge and proceed with the probation surrender hearing in the new court on the pretrial conference hearing date.

# **MOTOR VEHICLE LAW**

I) Law of Arrest

A) Review of Chapter 90/S.21

1) Violation of first paragraph of Chapter 90/ Section 10.

a) operator under 16 years old

b) operator must have valid license

c) Nonresident without license easily accessible or on person

d) Violation of 540 CMR 2.06(5) deemed to be operating without being duly licensed.

1) Operating outside license class

2) Operating without proper CDL endorsement

3) Violation of license restriction

4) Violation of learner's permit restriction

5) Violation of CDL Out of Service Order

2) Operating after suspension or revocation of license or right to operate

3) Knowingly using a motor vehicle without authority

4) Probable Cause that an operator is driving under the influence of intoxicating liquor or drugs.

5) Leaving the scene of an accident after knowingly colliding with or causing injury to any person.

a) Does not include property damage.

b) Felony if death occurs and added element of leaving to avoid apprehension is present.

6) Violation of C.90/S.25

a) Refuse to give name/address of operator and owner of vehicle.

b) Giving a false name/address

c) Refuse to stop for a police officer when signalled

d) Refuse to produce license and registration to an officer and allow him to inspect it in hand.

e) Refuse to sign name for I.D. purposes only.

B) When a police officer determines that he will not be arresting for a criminal automobile law violation, the officer must issue a citation for the offense. (MGL chapter 90C § 3(B)(1)).

1) Options allowed:

a) written warning

b) arrest, if authorized by law

c) criminal complaint citation

II) "Nonresident" - any person whose legal residence is not within the commonwealth. (MGL chapter 90 § 1).

A) Licensing

- 1) The registrar may suspend the right of any nonresident to operate in this commonwealth. (MGL chapter 90 § 3).
- 2) A nonresident who holds a license issued under the laws of the state or country in which he resides may operate any m/v of the type which he is licensed; provided, that he has the license on his person or in the m/v in some easily accessible place. State or country of residence must allow similar privileges for residents of the commonwealth. (MGL chapter 90 § 10).
- 3) Upon obtaining residence within the commonwealth, a nonresident must obtain a Massachusetts license.

B) Registrations (MGL chapter 90 § 3).

- 1) A m/v or trailer owned by a nonresident may be operated on the ways of the commonwealth without registration under chapter 90, if the nonresident complies with registration and operation laws of his state or country.
  - a) Operation allowed up to 30 days in the aggregate in any one year.
  - b) Operation allowed for up to 30 days after the acquisition of a regular place of abode or business or employment within the commonwealth, except where the owner meets the liability requirements as defined in MGL chapter 90 § 34A.
- 2) The registrar may suspend the right of any nonresident owner to have his m/v or trailer operated in this commonwealth. (MGL chapter 90 § 3).
- 3) The vehicle of a nonresident in the possession or control of a resident cannot be operated in excess of 30 days in the aggregate in any one year, unless registered under chapter 90. (MGL chapter 90 § 3).
- 4) The m/v of a nonresident used in direct connection with a place of business within the commonwealth shall be registered in the commonwealth. (MGL chapter 90 § 3).
- 5) A nonresident who uses a m/v in direct connection with a place of business within the commonwealth and in direct connection with a business outside the commonwealth need not register in the commonwealth more than the average number of vehicles regularly used with his place of business in this commonwealth. (MGL chapter 90 § 3).

B) Insurance

- 1) Failure of a nonresident involved in an accident to have proof of insurance on his person or in some easily accessible place shall be *prima facie* evidence that insurance was not being maintained and shall create a presumption in an action for damages that insurance was not maintained, which may be rebutted. (MGL chapter 90 § 3).

C) Students (MGL chapter 90 § 3).

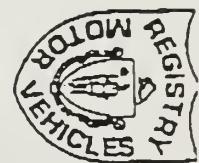
- 1) Must register with police dept. in city or town where school is located, reporting in triplicate:
  - a) signed under penalty of perjury
  - b) the registration number, make, and model
  - c) state or country of registration
  - d) names and addresses of all insurers
  - e) legal nonresident address
  - f) residence while attending school
  - g) name and address of school attending
- 2) Insurance
  - a) nonresident student must maintain liability protection of at least that of which is required by MGL chapter 90 § 34.
- 3) Police department will retain one copy and send one copy to the registrar and to the school.
  - a) school is to maintain a register of all students and vehicles from information received.
- 4) Decal
  - a) school will issue each student a decal
  - b) decal is to be placed in center uppermost section of the windshield.
    - 1) temporarily if prohibited by nonresident state
- 5) Violations by student
  - a) CMVI
  - b) \$50.00
- 6) Violations by school
  - a) CMVI
  - b) \$100.00

D) Miscellaneous

- 1) Registrar may suspend, for up to six months, the right to operate of a nonresident or the right to operate a m/v owned by a nonresident who has violated MGL chapter 90 § 3, three or more times, in a twenty-four month period.

**OUTLINE SUMMARY OF LAW ON TRANSPORTER, OWNER-CONTRACTOR, AND FARMER PLATES**

June 29, 1994



Sec. 5 Plate Type	If vehicle owned by sec.5 plate holder	If vehicle leased by sec.5 plate holder at market rates	If vehicle not owned or leased by sec.5 plate holder, but under the control of the Sec. 5 plate holder
TRANSPORTER	Use Prohibited.	Use Prohibited.	OK, but only so long as the vehicle operates under its own power and the vehicle is being operated in the course of the Transporter's business. A repossession can use transporter plates. Transporter company must have a D.P.U. license. No compliance decal required.
OWNER-CONTRACTOR	(1). OK, if vehicle is a construction type crane. (2). OK, if vehicle is principally designed to conduct excavation or lift building materials at a construction site. Notes: Vehicles Must Have GVWR of 12,000 lbs. or more. A concrete pumper qualifies. Vehicle cannot be designed to carry passengers or a load on a public way; so dump trucks, ordinary cement mixers, pick-up trucks, vans, and flat bed trailers do not qualify. Compliance Decals required.	Same as in previous column.	Use Prohibited.
FARMER	OK, if vehicle is principally used for a farm related activity. But the vehicle may not be an ordinary passenger vehicle, a passenger van, or station wagon. The vehicle may be a pick up truck or cargo van. A SportUtility vehicle if permanently altered for use as a farm vehicle may be used. Compliance decals required, unless the vehicle is designed primarily for agriculture, horticulture, or livestock raising.	Same as in previous column.	Use Prohibited.

**NOTES: APPLICABLE TO ALL DEALER, REPAIR, MANUFACTURER, TRANSPORTER, OWNER CONTRACTOR, AND FARMER PLATES:**

- (1.) In determining whether a vehicle is owned by a Sec.5 plate holder, Remember: A human person and a "DBA" (a "doing business as" name) are the same legal entity. But a human person and a corporation are always two different legal entities, even if the human person involved owns the corporation involved. (2.) The same company may have both dealer plates & repair plates. (3.) Any personal use or commuting use incidental to a use marked above as "OK" is authorized. However, general personal use by dealers, manufacturers, and farmers is harmonious with c.60A s.1 so long as the dealer, manufacturer or farmer has paid the full excise tax for the vehicle. Therefore, except for dealers, manufacturers, and farmers who have paid the full excise tax on the vehicle, the personal use or commuting use must be incidental to an activity described above as "OK". (4.) If the above chart indicates "OK", the operator may only exercise control of the vehicle with the Sec.5 plate for five days, unless the operator is an agent or contractor for the Sec.5 plate holder. If the operator of the vehicle is an agent or contractor of the Sec.5 plate holder, there is no time limit on any use marked "OK" above. (5.) A section 5 plate may never be put onto any vehicle neither owned nor leased nor controlled by the Sec. 5 plate holder. (6.) A Section 5 plate may never be put onto any vehicle leased by the Sec. 5 plate holder at less than 100% sites. (7.) A sec. 5 plate may be used to plow snow from the property of the sec. 5 plate holder. Additionally, a vehicle described above as "OK" to be a owner-contractor plate may with such a plate plow snow for hire from ways. (8.) A vehicle transporting crushed junk metal may not be

OUTLINE SUMMARY OF LAW ON DEALER, REPAIR AND MANUFACTURER PLATES (June 29, 1994)

Sec. 5 Plate Type	If vehicle owned by sec.5 plate holder	If vehicle leased by sec.5 plate holder at market rates	If vehicle not owned or leased by sec.5 plate holder, but under the control of the Sec. 5 plate holder.
DEALER	(1). OK, If operator is a sales agent ready, willing, and able to foster identified interest and negotiate toward the sale of the vehicle; display of the vehicle with dealer plates invites negotiation and offers interest. If in a vehicle with a dealer plate, the dealer's sales agent is commuting, is at the beach, or is at a club, it is up to the Commonwealth to prove that the sales agent is not in fact ready, willing, and able to foster identified interest and negotiate. Personal use and commuting use can be compatible with display use. A family member may be a sales agent. (2). OK, If operator is a non-sales agent authorized to transport the vehicle to or from a storage, repair, or sales site. (3). OK, If operator is a prospective buyer test driving the vehicle; the prospective buyer may operate the vehicle while the operator's vehicle is in the dealer's repair shop. However, there is a five day limitation on the use of a dealer's vehicle by a prospective buyer. Notes: The presence of a dealer's business card on the operator's person is evidence of compliance with applicable law. No compliance decals are required for dealer vehicles lawfully bearing dealer plates.	Use Prohibited.	OK, only if vehicle is being offered for sale to the dealer, or if the dealer lists the vehicle in the dealer book as being on consignment; no compliance decal is required. Otherwise, use prohibited.
REPAIR	(1). OK, if the vehicle has a compliance decal. If the name & municipality is lettered onto sides, and if vehicle is a service vehicle, tow truck, ramp truck, or transporter vehicle. A service vehicle may be used to drive a customer home and may be loaned to a customer whose vehicle is being repaired for not more than 5 days. (2). A vehicle newly purchased by the repairer may be operated for ten days after purchase with a bill of sale and a repair plate; no compliance decal required. (3). A vehicle that is being driven to or from a salvage title inspection site may be driven with a repair plate; no compliance decal is required on such a vehicle being driven to or from a salvage title inspection site.	Same as previous column.	(1). OK, if vehicle is being towed, (no add'l plate need be on the tow truck). (2). OK, if vehicle is being operated principally on a test drive, or enroute to a storage, sales, or repair site when the vehicle is the subject of a repairer's lien or of impoundment. No compliance decal required.
MANUFACTURER (Dealer plate used)	OK, for general display use. No compliance decal is required.	Use Prohibited.	Use Prohibited.

OTES: APPLICABLE TO ALL DEALER, REPAIR, MANUFACTURER, TRANSPORTER, OWNER CONTRACTOR, AND FARMER PLATES: (1.) To determine whether a vehicle is owned by a Sec.5 plate holder, Remember: A human person and a "DBA" (a "doing business as" name) are the same legal entity. But a human person and a corporation are always two different legal entities, even if the human person involved owns the corporation involved. (2.) The same company may have both dealer plates & repair plates. (3.) Any personal use or commuting use incidental to a use marked above as "OK" is authorized. However, general personal use by dealers, manufacturers, and farmers is synonymous with G.L. c.60A s.1 so long as the dealer, manufacturer or farmer has paid the full excise tax for the vehicle. Therefore, except for dealers, manufacturers and farmers who have paid the full excise tax on the vehicle, the personal use or commuting use must be incidental to an activity described above as "OK". (4.) If the above chart indicates "OK", the operator may only exercise control of the vehicle with the Sec.5 plate for five days, unless the operator is an agent or contractor for the Sec.5 plate holder. If the operator of the vehicle is an agent or contractor of the Sec.5 plate holder, there is no time limit on any use marked "OK" above. (5.) A section 5 plate may never be put onto any vehicle leased by the Sec.5 plate holder at less than market rates. (7.) A vehicle transporting crushed junk may not be operated with a Sec. 5 plate. (8.) A vehicle transporting crushed junk may not be operated with a Sec. 5 plate plow.

Massachusetts General Laws Chapter 90, sec. 24 (1) (e)

"When there is no evidence presented at a civil or criminal proceeding of the percentage, by weight, of alcohol in the defendant's blood, the presiding justice will include in his instructions to the jury a statement of the arresting officer's responsibilities upon arrest of a person suspected to be operating a motor vehicle under the influence of alcohol and a statement: that a blood alcohol test may only be administered with the person's consent; that a person has a legal right to take or not take such a test; that there may be a number of reasons why a person would not take such a test; that there may be a number of reasons why such a test was not administered; that there shall be no speculation as to the reason for the absence of a test and no inference can be drawn from the fact that there was no evidence of a blood alcohol test; and that a finding of guilty or not guilty must be based solely on the evidence that was presented in the case."

\*\*\*\*\*

In a recent decision, the Supreme Judicial Court has viewed the statutory language as unconstitutional. The reasoning was based on the view that a juror would speculate as to the reason that no test results were presented. The court held that the statute "unconstitutionally compels an accused to furnish evidence against himself or herself" and the instruction by the judge "although mandated by the statute, constitutes reversible error requiring a new trial." The inference could be prejudicial to a suspect's due process rights. *Comm. v. Zevitas*, Supreme Judicial Court S-6413, decided September 23, 1994.

HANDCUFFING  
&  
CONTROLLING  
TECHNIQUES

# RELATIVE POSITIONING

## POSITION 1

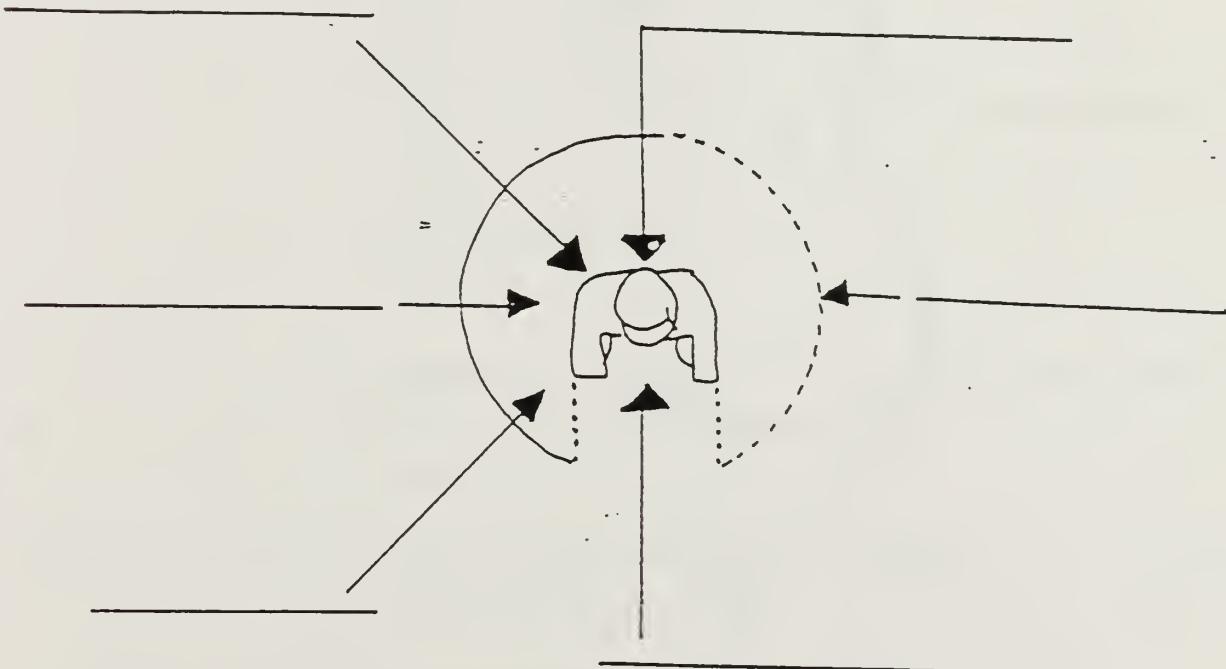
## INSIDE POSITION

## POSITION 2

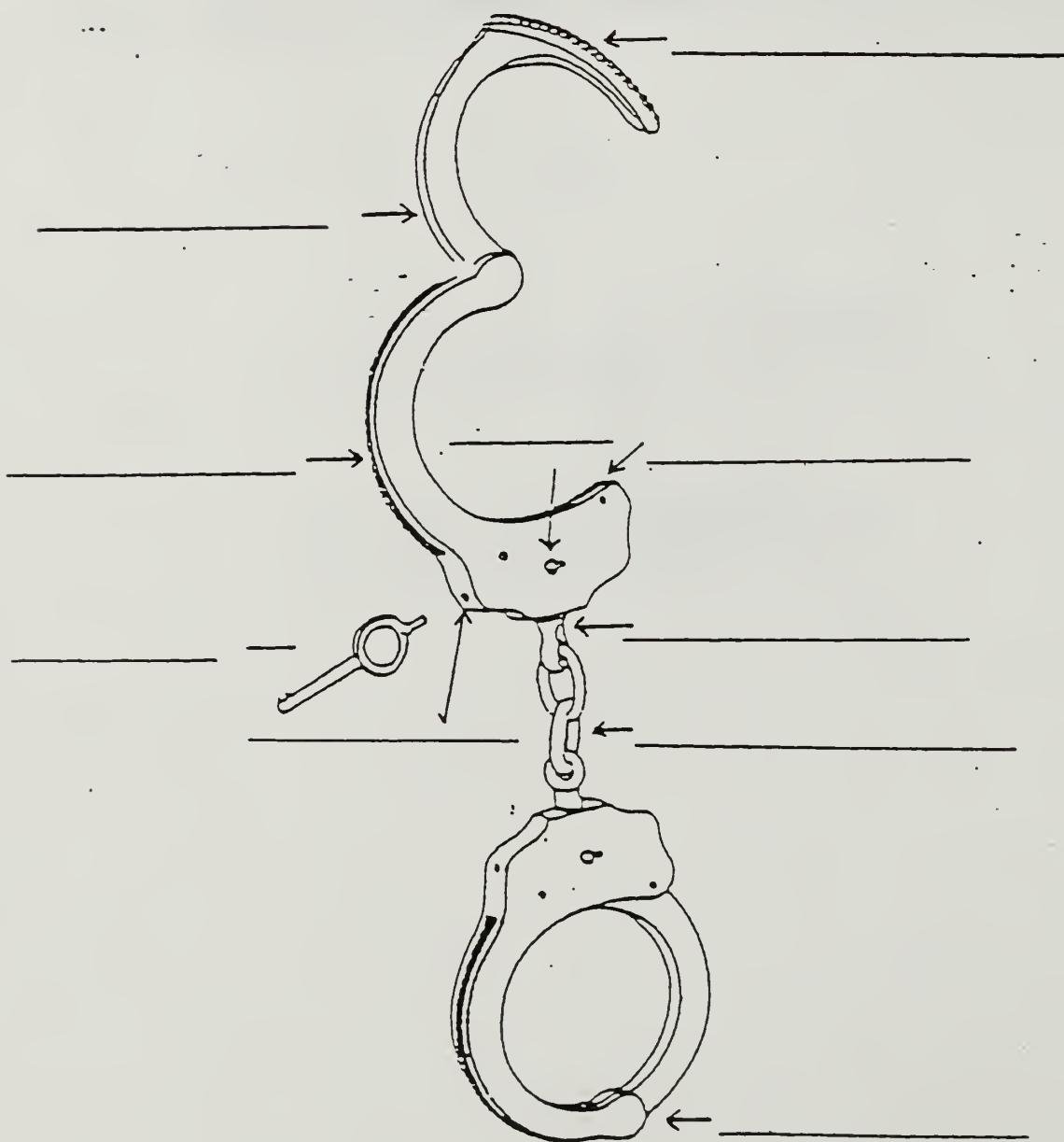
## OUTSIDE POSITION

### POSITION 3

**POSITION 2 1/2**



# HANDCUFF COMPONENTS



### HANDCUFFING #3

#### SIX (6) COMPONENTS OF PROPER HANDCUFFING:

\_\_\_\_\_ : placing a subject in a \_\_\_\_\_  
position giving an officer a position of  
\_\_\_\_\_. Position, distance, cover, prone,  
kneeling are part of techniques and tactics needed  
to immobilize a subject.

\_\_\_\_\_ : after a subject is immobilized, the hand, wrist,  
arm or other portion of the body is grabbed in  
order to get a wrist in a position where it can  
be cuffed by an officer.

\_\_\_\_\_ : Officer \_\_\_\_\_ the subject using a  
\_\_\_\_\_ technique.  
Cuffs should be double-locked if tactically  
possible.

\_\_\_\_\_ : while maintaining \_\_\_\_\_ of the subject,  
prisoner must be \_\_\_\_\_ and  
\_\_\_\_\_ searched.

\_\_\_\_\_ : Officer checks subject's \_\_\_\_\_  
\_\_\_\_\_ and notes any \_\_\_\_\_,  
\_\_\_\_\_, or \_\_\_\_\_. Officer also checks self  
for injuries and breathes.

\_\_\_\_\_ : Officer utilizes prisoner control techniques.

Handcuffs are:

temporary restraining devices

placed on the wrist between hand and the wrist

tightened on the wrist, leaving enough room for one finger tip

placed on the wrists with the hands behind the back

not the end of prisoner control

to be controlled during entire handcuffing technique

taken off a subject in a safe and controlled manner

more easily removed if the handcuff key is in an accessible spot

# GANGS

# **SYMBOLISM**

**Gang Name**

**Colors**

**Turf**

**Graffiti**

**Street Names**

**Tattoos**

**Hand Signals**

**Language**

## **STREET GANG PROFILE SHEET**

**GANG NAME:**

**PRECINCT/DIVISION/NEIGHBORHOOD:**

**AGE GROUP:**

**ETHNIC COMPOSITION:**

**TURF**

**COLORS:**

**GANG ALLIANCES:**

**GANG CONFLICTS:**

**CRIMINAL ACTIVITIES:**

**GANG LEADER(S):**

**SCHOOLS ATTENDED:**

**COMMENTS:**

#3

## **REASONS**

**Opportunity**

**Status**

**Rebellion**

**Masculinity**

**Associations**

**Fad**

**Experimentation**

**Hedonism**

**Drugs**

**No Supervision**

**Lack of Programs**

**Self-Protection**

## Gang Identifiers...Things to Remember

The following is a list of items to assist you in the recognition of street gang members that you may come in contact with during the performance of your job.

**PLEASE REMEMBER:** If a person has one of these identifiers, it does not always mean that he/she is a gang member. The best and safest thing to do is check for additional items, such as tattoos, jewelry, past incidences, etc.

1. **EARRINGS:** Right ear- Disciples, Simon City Royals and gangs affiliated with the Disciples.  
Left ear- Vice Lords, El-Rukins, Latin Kings and gangs affiliated with these gangs.
2. **HATS(Generally):** Tilted to the right - Disciples, Simon City Royals, Etc.  
Tilted to the left- Vice Lords, Latin Kings, Etc.
3. **HATS(Civil War Type):** Blue- Disciples, Simon City Royals, Etc.  
Grey- Vice Lords, etc. (Note: Vice Lords have been known to cut off the bottom parts of the crossed rifles to form a "V" out of the top parts.)
4. **NEW WAVE STAR:** Sheets worn under hats that hang from the back (like a shirt). It sometimes has gang colors, symbols, etc. on it. The gangs started doing this in the prison system using sheets, T-shirts, etc. (Note: Use caution when thinking that a person wearing this is a gang member, unless markings are obvious. It is popular with non-gang members such as construction workers, break dancers, etc.)
5. **GLOVES(one):** Right hand- Disciples, Simon City Royals, Etc.  
Left hand- Vice Lords, Latin Kings, Etc. (Caution: should be mentioned again regarding this as it is popular with break-dancers, punk rockers, etc.)

6. **RIGHT/LEFT RULE:** The same right and left rule applies to other things like: belt buckle, bandana hanging from a pocket, tied around a leg, hanging from a belt loop, etc.

7. **STARS:** Six (6) pointed- Disciples, Simon City Royals, etc.  
Five (5) pointed- Vice Lords, El-Rukins, etc.

8. **CROWNS:** Pointed- Latin Kings  
Rounded- Imperial Gangsters

9. **RABBIT HEAD:** Straight ears- Vice Lords, Latin Kings  
Bent ears- Simon City Royals, Disciples

10. **GYM SHOES:** Gang affiliation can be shown in many ways. The following are just a few examples:  
a) The color of the shoe vs. the shoe laces.  
b) Two (2) sets of laces in the shoe representing the gangs colors.  
c) Two (2) colored laces in either the right shoe or left shoe showing gang affiliation.  
d) One (1) lace of the primary color in one shoe.  
e) Vice Lords have been known to wear Converse gym shoes because of the five-pointed star on the side.  
f) Tongues of shoes: Right up, Left Down- Disciples  
Left up, right down- Vice Lords, etc.  
g) Right shoe laced up, left shoe halfway: Disciples, etc.  
Left shoe laced up, right shoe halfway: Vice Lords, etc.

11. **GRAFFITI:** If any graffiti is written upside-down, it shows disrespect to that gang and was written by an opposing gang.

12. **HAIR:** Gang members are doing different things with and/or putting different things in their hair to show their gang affiliation.  
a) cutting a design(s) in their hair (pitchforks,

arrows,etc.)

- b) beading their hair with beads of the gangs colors
- c) hair streaking: The Vice Lords have been putting a gold or red streak on the left side of their head. The disciples have been putting a blue streak on the right side of their head.
- d) Rubber bands: wrapping a "pony tail" in rubber bands of the gangs colors
- e) Barrette: securing a pony tail or just in the hair with a barrette of the gangs colors

13. FRIENDSHIP BEADS: Gangs have "taken over" this fad by having their gangs colors on beads. These are worn on clothing, shoes, hair, and even as earrings.

14. POCKETS: The inside of the pockets have been colored with the color(s) of the gang. This is due as a means of representing.

15. CLADDAUGH RING: An Irish friendship ring which also means love and loyalty. The Latin Kings have started wearing these rings because it has a crown in the center.

16. PANT LEGS: Rolled up on the right side- Disciples, Simon City Royals, etc.  
Rolled up on the left side- Vice Lords, Latin Kings, etc.

17. ROLLER SKATE LACES: Tied up and down on right side- Disciples, etc.  
Tied up and down on left skate-Vice Lords, etc.  
Tied up half-way on the opposite skate denotes a put-down to rival gang.

18. JEWELRY: Gangs have their gang symbols made into jewelry (6 or 5 pointed stars, rabbit heads, etc.) and worn as a necklace, keyring, earring, etc. One of the latest pieces of jewelry is the wearing of the Italian Horn by the Disciples. The Horn is suppose to represent the

devil's horn, which is part of their logo.

19. **JELLY BRACELETS:** A colored rubber/plastic loop that is worn around the wrist. May be worn in multiples representing the gangs colors. Sometimes a second bracelet can be attached and worn around a finger and wrist together (like a "slave bracelet"). (Note: caution- is to be used again because this is also a popular fad with non-gang type individuals.)
20. **BUTTONS:** With the latest craze in buttons, gangs have emblems,
21. **FINGER NAILS:** Gang members have been coloring two (2) nails with their gang colors. Nails colored should b on the hand they represent to right side/left side.
22. **SWEATSHIRTS:** Gang members have been wearing hooded sweatshirts with jackets over them. The hood is usually hanging out over the collar of the jacket. The thing to remember is the color of the hood vs. the color of the jacket. this represents the gangs colors.

# GANG INDEX FILE

#5

# DANGEROUS MOTORCYCLE GANGS

## ORGANIZATIONAL STRUCTURE

### BACKGROUND

There are numerous motorcycle gangs that have chapters in various cities and states around the nation. These gangs are usually structured with the leader being the national president who is located at, or close by the national headquarters or sometimes called the "Mother Chapter." Next you usually find the position of district, territorial, or regional representative who is the liaison between the national president and local chapter presidents. He usually holds the authority to solve local problems without going to the president.

Motorcycle gangs who lack the size and sophistication will most always be structured with only the rank and file as related to local chapters.

Dangerous motorcycle gangs allow only a White male membership; however, just recently all Black one percent clubs have been formed and are in various parts of the nation. In order to identify these clubs you must contact the local expert in your area that deals with motorcycle gangs.

### NATIONAL PRESIDENT

Many times the founder of the club. He will usually be located at or near the national headquarters. In many cases he will have a select group of individuals who answer only to him as bodyguards and organizational enforcers. In most cases he will possess the authority to make final decisions over all club matters, and can overrule any voted decisions. He generally has the final say.

### TERRITORIAL OR REGIONAL REPRESENTATIVES

In some cases called the national vice president in charge of whatever region or district he is assigned. His duties are usually to handle all problems that the local chapters are unable to handle at their level. Any problems that involve the club as a whole will usually be sent up to the national headquarters.

### NATIONAL SECRETARY-TREASURER

He is responsible for handling the club's money, and collecting dues from local chapters. He makes changes and drafts of new club by-laws. He records the minutes and maintains the records on all headquarters or regional officers meetings.

### NATIONAL ENFORCER

This position answers directly to the national president. He sees to it that the president's orders are carried out. He may act as the president's bodyguard, along with handling all the special situations like punishment for club violations, or retrieve the colors from a member who has left the club. He has also been known to locate an ex-member and remove the club's tattoo from his person.

### CHAPTER PRESIDENT

Usually a person through a combination of personal strength, leadership skills, and personality has either claimed the position, or been voted in. He has final authority over all chapter business and members. Usually his word is law within that chapter.

### VICE PRESIDENT

This individual is the second in command and the right hand of the chapter president. He resides over club affairs in the absence of the president. Normally, he is hand picked by the president and heir apparent to the club's leadership.

### SECRETARY-TREASURER

Usually a chapter member who has the best writing skills. He will keep the chapter roster, and maintain a cr... accounting system for the chapter. He takes the minutes at all chapter meetings and collects the dues and/or fin... Any bills the chapter has he is responsible for paying.

## SERGEANT AT ARMS

Because of the unruly and violent nature of outlaw gangs, each chapter has an individual whose principal duty is to maintain order at club meetings, functions and runs. He is normally the strongest member physically and is completely loyal to the president. He may administer beatings to fellow members for violation of club rules. He is the club enforcer for that chapter.

## ROAD CAPTAIN

A rather unique gang officer, the Road Captain fulfills the role of a logistian and security chief for club sponsored "runs," or outings. The Road Captain maps out routes to be taken during runs, arranges for refueling, food, and maintenance stops. He will carry the club's money and use it for bail if necessary. The Road Captain will usually make contact with local law enforcement officials to express the club's intentions while in their jurisdiction.

## MEMBERS

The rank and file, fully accepted, and dues paying members of the gang, are the individuals who carry out the decisions of the club's leadership and who have sworn to live by the club's by-laws. Normally, gangs have limited membership. This affords the president greater control over the affairs of the gang. At the same time, limited membership helps to insure that the gang's criminal efforts are not compromised to law enforcement. When a gang becomes too large, there is a tendency to divide the membership into various chapters, based on geographic location of members.

## PROBATE OR PROSPECTIVE MEMBER

These are the club hopefuls who spend from one month to one year in a probationary status, and who must prove during that time that he is worthy of becoming a club member. Many clubs require the probate to commit a felony with fellow members observing, so as to weed out weak individuals and infiltration by law enforcement. Probates must be nominated by a regular member and receive a unanimous vote for acceptance. They carry out all menial jobs at the clubhouse and for other members. They are known to carry weapons for other club members, and stand guard during club parties. The probate will not wear the club's colors. He will only wear a jacket with the bottom rocker showing the location where he is from. He has no voting rights, until voted in himself and completes an initiation and awarded his colors.

## ASSOCIATES OR HONORARY MEMBERS

An individual who has proved his value or usefulness to the gang. These individuals may be professional people who have in a manner commensurable with their profession been supportive of the gang, or proven criminals with whom the gang has had a profitable, illicit relationship. Some of the more noted ones are attorneys, bail bondsmen, motorcycle shop owners, and auto wrecking yard owners. These individuals are allowed to party with the gang, either in town or on their runs; however, they do not have voting status, attend club meetings, or wear the club colors.

There is one outlaw gang association that deserves special mention. When bikers are convicted and sentenced to a correctional facility, they find themselves far removed from the protection of their club and in a hostile environment. To insure their own well-being, they are likely to associate with members of other outlaw gangs and with established radical White Power groups at the penal institution. Notably in Southwest and West Coast facilities, outlaw motorcycle members tend to align themselves with an institution's Aryan Brotherhood prison gang.

## CONSTITUTION OR BY-LAWS

All outlaw motorcycle clubs have, in one form or another, by-laws or a constitution that sets forth accepted standards of conduct for club members and administrative procedures for the gang's operations. The larger the club, the more the tendency and need to develop a written document.

Typically, by-laws govern such matters as membership requirements, fines for misconduct or breaking club rules, acceptable behavior during "runs," and similar matters.

In reviewing various club by-laws, we find the majority of rules are the same. The following are examples:

1. All persons must be 18 years of age for membership.
2. All prospective new members must be sponsored by an old member.
3. All prospective new members must complete a probation period.
4. Each new member will pay (clubs set fee) the national headquarters initiation fee.
5. Each member will pay monthly dues to his chapter, set by the local president.
6. No member shall transfer from one chapter to another without the permission of both presidents and pay a transfer fee to the national treasurer.
7. When a member is in another chapter's jurisdiction, he will abide by their by-laws and president.
8. Any member caught using the needle will lose his colors and everything that goes with them.
9. Harley Davidson or Indian motorcycles will be the only bike used while in this club.

## DANGEROUS MOTORCYCLE GANGS

### COLORS

The proudest possession of any outlaw motorcycle gang member is his "colors," which is his outlaw duty uniform and claim to membership in a particular club. Colors refer both to the official emblem of the gang and a member's cutoff (sleeveless) denim or leather jacket which has been embroidered with the club logo (on the center rear of the jacket), the name of the club on the top rocker, and the club location underneath. Also sewed or pinned on the colors will be all other authorized club patches which are usually offensive to society.

For outlaw gangs, colors are even more prestigious than motorcycles. While the motorcycle is a symbol of an individual's desire for a particular lifestyle, "colors" display his dedication to a particular gang, its ideals, and its philosophies. The loss of one's "colors" to a rival club member means extreme loss of face and can be a basis for expulsion from the club. The loss inevitably arouses intense hatred against the individual or rival club who took the colors. Many gang wars have started in this manner.

### PATCH PULLING OFFENSES

There are various "patch pulling" offenses common to many biker clubs. One of the first such offenses listed in club rules, ironically, is drug addiction. Bikers know that a man's loyalty to the needle is greater than that paid to the club, and the club comes first—before family, friends and anything else.

Other patch pulling offenses often listed on the club's rules are: stealing from another club member, renegeing on a drug deal made with another member, pulling a gun at a club meeting, and hitting a brother biker.

Frequently, the guilty party will be reduced to ranks by having to probate again and pay a fine. What is not written into the rules is the guilty member will also probably undergo a severe beating for his alleged indiscretions.

### INITIATIONS

After a prospective member (probate or prospect) has met the probationary period, his initiation into the club is held. At this time he receives his "colors" from the ranking club member. His colors at this point are referred to as originals, however after the initiation that term is no longer used.

With upwards to 900 dangerous motorcycle gangs in existence, it's difficult to list all the various acts required for new members to perform during initiations. Each gang has its own requirements which run from the low key college type stunts to the most outrageous, disgusting and shocking acts one could think of. Rituals range from stopping a woman in public and demanding she take off her underpants and hand them to you, to laying on the ground face down while fellow bikers urinate, defecate, and vomit on your original colors. Some clubs may just pour grease and oil over you, while others may require you to submit to the sexual pleasures of the club mascot which in most cases is a dog.

From this point, washing your colors is taboo. The initiate biker must now wear his colors (when required by the club) until they literally fall off his back. The worse they look, the more class the biker gains.

The above mentioned rituals for the most part are still performed by the majority of motorcycle gangs today. However, a few gangs, such as the Hell's Angels, feel that due to their size, wealth, and sophisticated activities they no longer require their members to degrade themselves. They feel a good thorough background investigation is more important than testing his loyalty and desire through other means. Due to the Hell's Angels new philosophy, you no longer see them wearing dirty colors.

## DANGEROUS MOTORCYCLE GANGS

### GANGS BASIC PHILOSOPHIES

#### FTW

"Fuck the World" (FTW) is their motto and arrogant attitude by which this sub-culture attains its goals and objectives. They have given up on society and the politicians' one way law. They don't want to be like the normal citizen or dress like them. This is why they have created their own dress code which is filthy, repulsive and often offensive. The most shocking and disgusting acts bikers could perform in our society would only raise their image and social standards within their own environment.

Retribution is strictly an eye for an eye. Bikers would have it no other way, with their code of honor strictly enforced. They make it easy to be hated. After all, that is their main objective.

## PRIOPITIES IN LIFE

First priority of any club member is his feelings and respect for his colors and the club. They rate equal loyalty, and it has been said, members would give their life for either one.

Second priority is the biker's motorcycle. It's no surprise to find a motorcycle in the living room of members' homes, or to find they spend more time with their bikes than anything else. It's their second most cherished possession and a major status symbol.

The third priority is either his dog or old lady, depending on which one he owns. If he owns both we must keep in mind that there are very few cases known that members have bought, sold, traded or given away dogs, as the women are.

## WHITE SUPREMACY

Their feelings strongly parallel those of the Ku Klux Klan and the late Adolf Hitler's beliefs. This is seen by the tattoos, patches and pins worn by the members, such as Nazi Swastikas, White Power Fist, and pins that openly state, "White Supremacy."

There are no known Negro males who hold membership with any White outlaw gang; however, there are a number of all Black one percent gangs throughout the United States.

## LOYALTY

It goes without saying that loyalty is high on the list of bikers' philosophies; not only to the club itself, but to your brothers. In any situation it's not a matter of whether your brother is right or wrong, it's the fact that he is your brother.

Loyalty is one conviction that is strictly enforced. If you break the code of silence you will be hunted down and killed.

# DANGEROUS MOTORCYCLE GANGS

## THE ROLE OF THE MOTORCYCLE

Next to a gang's "colors," a biker's most cherished possession is his motorcycle. So esteemed is the motorcycle that its destruction by or loss to a rival gang member not only results in much loss of face but also could be grounds for expulsion from the club.

The motorcycle fulfills several roles in the gang. Obviously, it is a means of transportation. Secondly, it is a requirement for club membership and is in itself a status symbol. Thirdly, it is the one material object all members own, and the one mechanical object in which they have a common interest. Finally, the motorcycle, along with the very dress of club members, helps to perpetuate the image of the club as a disciplined and paramilitary organization and has a certain macho or shock value for the biker in his dealings with other gang members, local law enforcement officers, and private citizens.

There is, moreover, a hard to define, near mystical bond between a biker and his bike, as well as an ill-defined feeling about motorcycles that tends to unite the members of a motorcycle gang. The exact relationship between a biker and his "chopper" cannot be totally explained. Nevertheless, law enforcement personnel should be aware of this bond, as well as the role of the motorcycle in outlaw gang affairs.

There are two prerequisites for motorcycles that outlaw gangs strictly enforce, and which gang members religiously follow. One, they have to be a certain size (differs from club to club; however, usually the minimum is 500 cc) and more importantly, they have to be American made. For the outlaw member, the Cadillac of motorcycles is an older Harley Davidson that has been modified to meet certain club or personal standards.

# DANGEROUS MOTORCYCLE GANGS

## CRIMINAL ACTIVITIES

Outlaw motorcycle gangs will do virtually anything to make money. They will use whatever method of violence they deem necessary to establish control over an area for the purpose of conducting criminal activity. Gangs have been responsible for countless bombings and execution style slayings of rival gang members and members of their own club who have interfered with the criminal activity of the gang.

An example of some of the more common illegal activities they are involved in are as follows:

## MOTORCYCLE THEFTS

One of the oldest illegal activities of motorcycle gangs is bike thefts. Such activity ranges from selling the parts to redocumenting and selling the entire bike. Many gangs have well-established outlets for disposing of stolen motorcycles and, in many cases, they have their own motorcycle repair shops. These repair shops often become hangouts for gang members and provide a convenient cover for selling stolen parts and altering the original characteristics.

## PROSTITUTION

This activity provides a daily income to the club and its members. Females usually operate on the street or in club owned massage parlors. Many of the women will dance in Go-Go bars or work as cocktail waitresses and prostitute on the side.

## NARCOTICS

From the manufacture to distribution, many motorcycle gangs around the nation control the methamphetamine market. This by far brings in the largest profit to the club or members. Bike gangs deal and use most every form of narcotic; however, if they are caught using the needle, they will lose their "colors" and be thrown out of the club. This is a violation of most every gang's by-laws.

## ILLEGAL WEAPONS

The fastest growing criminal endeavor of the gangs is the possession, transportation, and sale of both automatic and prohibited weapons along with various forms of explosives. It has been documented that outlaw motorcycle gangs currently possess and can acquire automatic weapons from a variety of sources. These weapons have been shipped not only interstate but also internationally to Canada between members of various clubs.

Other criminal activities motorcycle gangs are involved in for profit are extortion, burglary, forgery, countersigning, welfare fraud, arson, and loan sharking.

There are various criminal acts that are committed by large portions of the biker population; however, usually not for profit - this being sex offenses, thefts, damaging property, carrying prohibited weapons, and kidnapping for rape.

Last but not least, spontaneous crimes that are of grave concern to the law enforcement community, are the rising criminal acts of assault on law enforcement officers, resisting arrest, obstruction of justice, obstructing police, intimidation of witnesses and the invasion of privacy by means of electronic equipment.

## INVESTING THEIR PROFITS IN LEGAL BUSINESS

The days of throwing their money away on parties, booze, and women are over. We find today that the majority of the larger motorcycle gangs are using a portion of their profits from criminal activity in investments in legal business. For example, some of the businesses owned by motorcycle gangs are mobile catering companies, bike repair shops, wrecking yards, massage parlors, investment firms, apartment houses, resort hotels, bars, ice cream shops, tow companies and private residences. This then gives the gangs the means of washing their profits from illegal activities through their legal businesses.

## MAFIA CONNECTIONS

Outlaw motorcycle gang members have taken contracts for murder and have taken money from more traditional organized criminal elements to be "enforcers." This would mean they would act as muscle for the Mafia to collect bad debts. This has been documented through gang members and organized crime figures who have turned witness.

## MOBILITY

Outlaw gangs, particularly the more sophisticated, have avoided using motorcycles as a conveyance during the commission of crimes. Major gang criminals have found it more advantageous to forsake motorcycles and the wearing of "colors" for late model automobiles and business suits. In fact, appearing straight provides gang members with a degree of security and a cover for carrying out criminal acts.

A second type of mobility enjoyed by outlaw gangs poses a more serious threat to law enforcement officials and to their ability to investigate a gang's criminal activities. This involves an outlaw motorcycle gang's ability to move illicit goods by sending members from one geographical area to another, and from one chapter to another without arousing the suspicions of local citizens or law enforcement. In a sense, outlaw gangs have an internal and reliable pipeline (members) for the flow of illicit goods among their chapters. Because of the extreme loyalty of the members to the club, law enforcement authorities have found it difficult to infiltrate the pipeline or to penetrate the clubhouses.

Club chapters also provide a valuable service to the gang by protecting and safeguarding members wanted for crimes committed in other geographical locations. The ability of fugitives to move freely from one chapter to another is obviously a distinct advantage for gangs and represents yet another serious problem for the law enforcement community, especially since most concerned law enforcement personnel would have at best, limited jurisdiction in

other geographical areas. When a gang member flees from prosecution, the new chapter usually provides him with false papers and identification cards to help develop his cover in his new location. At the same time, the member himself finds the transition to the new area relatively smooth, since the new chapter is prepared and willing to accept him with few reservations. All this, of course, makes it much more difficult for law enforcement to apprehend the fugitive.

Finally, outlaw motorcycle gangs possess a type of internal mobility that enables them to shift from one criminal effort to another without materially changing the composition of their organization. The criteria for a gang's involvement in a particular criminal effort is simply what type of expertise the club has in that effort, whether that effort is more profitable than the criminal act in which the gang is already involved, and to what extent law enforcement officers are enforcing (or are capable of enforcing) the laws that govern certain criminal behavior.

#### INTIMIDATION

Outlaw motorcycle gangs are notorious for their intimidation of private citizens and for acts of violence against those who oppose them. Intimidation can be as subtle as several gang members, dressed in their "colors," descending upon a courtroom in support of a member on trial, to the outright harassment and oral abuse of a witness. Even more widely known is the "code of retribution" against anyone who opposes a gang. This has taken the form of all shades of violence, from simple assaults to murder.

The obvious violent nature of motorcycle gangs, and the extensive criminal background of the members, is proof enough that anyone standing witness against a member or gang would be in grave danger.

### DANGEROUS MOTORCYCLE GANGS

#### BIKERS INTELLIGENCE NETWORK

Outlaw motorcycle gangs operate in an environment which is conspiratorial and often violent. They have, consequently, found it prudent to develop an intelligence system to protect themselves from their two principal adversaries: law enforcement and rival gangs. Generally the more criminally involved the gang, the greater the need for an elaborate intelligence system. Many of the systems were developed over time, and others were likely acquired by gang members during military service or learned in penal institutions.

#### INTELLIGENCE OFFICER

In your larger, more sophisticated gangs, one member will be assigned the duties of collecting and updating intelligence. One of his responsibilities is usually compiling a photo album with descriptions of rival club members in case of war. It has also been found that the same type of album has been used to identify law enforcement personnel and any other information that could be helpful.

These individuals are extremely mobile, and will travel from chapter to chapter, upon request, assisting the local president with surveillance or whatever their needs are, and never go near the clubhouse or wear the clothing that would connect him to a bike gang.

#### COMMUNICATION SYSTEMS

The major type of communication is via the telephone. Some clubs have recorded as much as 450 phone calls a month to locations around the world. One club, the Hell's Angels, is known to pay the monthly telephone bill of five smaller clubs, obviously to keep the lines of communication open for intelligence.

The Hell's Angels print a newsletter from each chapter and it is then sent to each chapter around the world.

At one time, Bandidos published a newspaper called the "B.F.B.B. Star."

#### USE OF WOMEN

Once trusted, their role turns to intelligence gathering. They will go into the community and take jobs at city, county, and state offices where they have access to blank birth certificates, drivers licenses and other useful documentation. Other areas of employment the women will seek is that of police records clerks, telephone operators, employees in welfare offices, and positions within penal institutions.

## DANGEROUS MOTORCYCLE GANGS

### BIKER WOMEN

Outlaw motorcycle gangs are male dominated and highly chauvinistic. Women are treated as little more than playthings, generally victimized by forcing them into prostitution or street level drug traffickers, and quite often physically abused. Generally they are bought, sold, traded or given away within the club.

Bikers pick up their women like a lot of other men—either in bars, hitchhikers, or runaways. The macho image prevails, and when asked if "you want a ride on my motorcycle," they're usually hooked.

Strangely enough, and despite the abuse these women receive, there is never a shortage. An unlimited number of good-looking females, it seems, are attracted not so much to the bikers themselves but the macho image that they represent as well as the lifestyle and excitement within the sub-culture. They choose a life which seems as exciting as a roller coaster ride, fast motorcycles, macho men, drugs, alcohol, parties, guns, topless bars, and "any way you want it" sex.

The women that follow any one certain gang are in many cases just as dedicated to the club as the members themselves, and in other cases just as cold-hearted and deadly as the male member.

The women of the gang will often carry guns and drugs in their handbag or on their person to help the biker, who oftentimes is prohibited from possessing a firearm because of being a convicted felon. They are often trained in ditching guns and drugs when being approached by the police.

As a source of income to the club, the women are usually put to work in topless bars where they hustle drinks, dance nude or topless, prostitute themselves, or set up patrons to be rolled. They usually average between \$75.00 to \$200.00 per night. Bikers of course exploit these females to the fullest, and no doubt live off the proceeds from the women's earnings.

Another area where the women are used effectively is intelligence gathering. They will obtain employment at telephone companies, city, county, and state offices, as well as police record divisions.

Women of motorcycle gangs mainly fall into two broad categories: Mamas or Sheep and Old Ladies.

### MAMAS OR SHEEP

These are women who belong to the club at large. They belong to every member and are expected to consent to the sexual desires of anyone at anytime. They perform medial tasks around the clubhouse, however do not attend club meetings. Some clubs permit these women to wear "colors" with the inscription, "Property of" (club name), embroidered on the back.

### OLD LADIES

These are the wives or steady girlfriends of club members. They belong to one member of the club, therefore, sexual and other demands can only be made by their husband or boyfriend.

An Old Lady is not a card carrying club member, and like the Sheep are not permitted to attend club meetings. They also will wear "Property of" colors; however, with the name of the biker she belongs to on the bottom rocker.

The women will usually supply bikers with a place to stay, and afford them a permanent address in order to collect welfare.

As mentioned in the section on "runs," the women and probates are the ones that usually drive the crash truck or war wagon during their outings.

## DANGEROUS MOTORCYCLE GANGS

### RUNS

A run is nothing more than a group of bikers from one club chapter, or a number of chapters, traveling together on a sanctioned outing to a certain location for a special reason. The formation of motorcycles is two abreast, and usually always within the posted speed limit.

Club officers and members ride in certain positions while in formation, along with one or two crash trucks.

Runs generally take some organizing. Bikes cannot transport cases of beer, sleeping bags, illicit weapons, or drugs; and the bikes themselves must appear to be clean if stopped on the highway by the police. A crash truck will either trail or precede (many times both) the main body of bikers by a mile or so. Crash trucks will carry spare motorcycle parts in case of breakdowns, sleeping bags, beer, drugs, and weapons, and many times be equipped with mobile telephones, police scanners, and CB radios.

The women or probates usually always drive the crash trucks, and are trained in ditching the weapons and drugs when being approached by the police.

Crash trucks come in various sizes, styles, and shapes. They could be vans, panel trucks, converted school buses, pick-up trucks or even automobiles.

When stopping runs, if possible, both the bikes and crash trucks should be stopped simultaneously. If your manpower does not allow this, then a stop should be made on the crash truck first.

## FORMATION AND LINEUP DURING RUNS

President ..... Rides at the front of the formation next to the center of the roadway.

Road Captain ..... Also rides at the front of the formation next to the president, on the curb or edge of the roadway side.

Full Color

Wearing Members .... These individuals, including the Vice President and Secretary-Treasurer, will ride two abreast behind the President and Road Captain.

Sergeant at Arms .... Rides in the last row of the regular membership on the curb or right side.

Strikers/Probates .... Ride two abreast following the regular, color wearing membership.

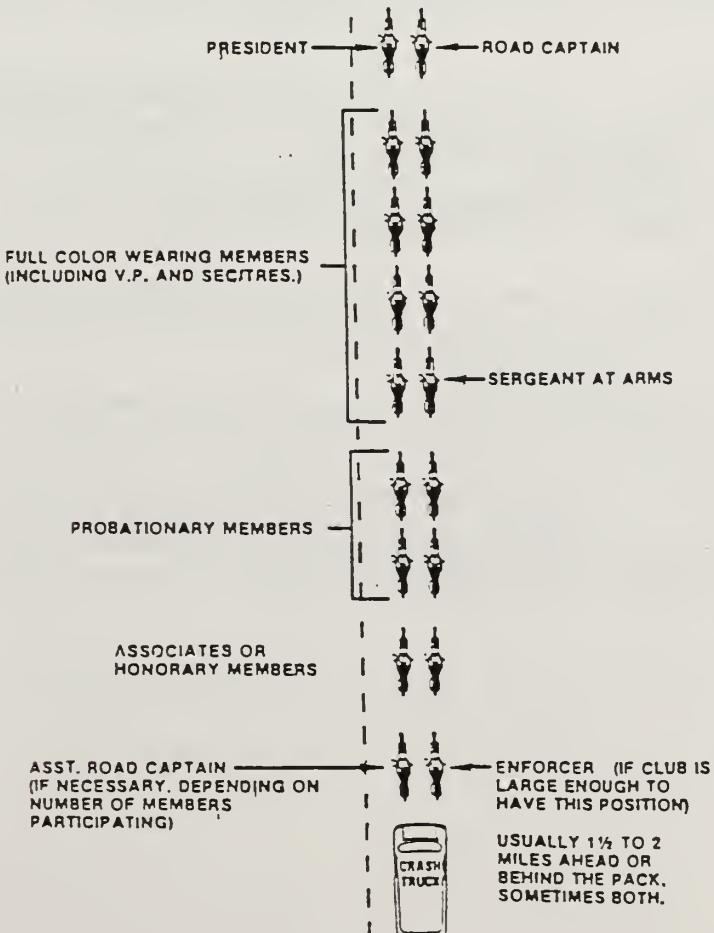
Associates ..... Ride two abreast following the probates.

Enforcer ..... If the chapter has this position he will be the last man in formation on the curb side.

Assistant

Road Captain ..... If the run is large enough, an assistant will be appointed and he also will be the last man in formation on the side nearest the center line.

## FORMATION AND LINE UP DURING A RUN



## DANGEROUS MOTORCYCLE GANGS

### CLUBHOUSES

Clubhouses come in various styles and sizes depending upon the gang's available funds. Their locations could be on farms, in residential areas or downtown business districts.

The majority of clubhouses today are for partying, working on their motorcycles, and club business meetings. With the increased raids on clubhouses by law enforcement personnel, and the danger of attacks by rival clubs, members are taking up lodging at other locations. However, the majority of clubhouses which are utilized by the larger, more sophisticated gangs require a 24-hour guard upon the premises. In some cases the members have purchased homes on the same block as the clubhouse in order to afford extra security when needed.

Some gangs have strict rules (after being raided by the police) that say no weapons, drugs, or stolen motorcycles to be held on the property. The clubhouse must be kept clean, but at the same time it must provide safety to its members.

### EXTERIOR FORTIFICATION

Some clubs first started by using steel reinforced doors with special locks, and steel shutters or steel mesh over the windows. One gang even went to the extent of having a Mosler safe door installed as a rear door.

A more popular security device nowadays is the standard chainlink fence with the barbed wire on top. This fence will run the entire outer perimeter of the property with a reinforced gate at the entrance. Running inside the chainlink fence immediately surrounding the buildings, they are now constructing a concrete cinderblock wall with built-in gun ports. For added security measures they will have guard dogs, either German Shepherds or Doberman Pinschers, running loose in the open area between the two fences. One club added framing between the cinderblock wall and roof of the clubhouse, then attached steel mesh to the framing. This now makes it extremely difficult to penetrate the walls or windows with any kind of thrown objects.

### INTERIOR FORTIFICATION

They are reinforcing the pillars and framing with steel, along with sheets of armored plating waist high on all exterior walls to guard against bullet and shotgun pellets. Some clubs will only stack cinderblocks from the floor to the bottom of the windows for protection. The windows may have wooden or steel shutters available to be closed from the inside. Fire doors and steel plating attached to the interior side of a regular front door are used.

### ELECTRONIC EQUIPMENT

Many clubhouses are equipped with anti-burglar alarms, which ring at local members' homes, and security flood lights. Also used are closed-circuit television cameras which view the street or approaches to the clubhouse and are monitored on televisions inside the house.

Also found are police radio scanners, listings of law enforcement radio frequencies, tracking devices, telephone eavesdropping and de-bugging equipment, along with anti-intrusion devices.

### BOOBY TRAPS

Poisonous snakes will be placed in various locations, such as dresser drawers, kitchen cabinets, and cardboard boxes on a shelf in the clothes closet, just waiting to strike at the first person to open its place of confinement.

Guns and weapons could be hidden inside furniture, behind pictures, and under flooring in case of a surprise attack from a rival gang or law enforcement officers.

A spring-load rat trap, with a crude firing pin attached to the spring lever, and a small hole drilled at the end with a 22 shell inserted, is used as a warning device or to injure when the line is moved, causing the trap to activate.

A two litre plastic soda bottle containing one-third concentrated sulfuric acid, and approximately two cups of gasoline; a tea bag (tea removed) containing potassium chlorate granulated sugar will hang inside the bottle with the string secured by the bottle cap, however not touching the liquid. The bottle will be leaned against a wall or door, and as soon as it is knocked or pushed over, the substances come together causing an immediate burst of fire with intense heat.

6

## MOTORCYCLE GANG TERMINOLOGY

1%ers	The 1% symbol is derived from a statement by the American Motorcycle Association (AMA) that 99% of the country's motorcyclists belong to the AMA and are law-abiding individuals. The 1% symbol has thus become the mark of the outlaw bike rider and they display it on their colors, and many have it tattooed on their person.
13	Patch worn on an outlaw member's colors, symbolizing that the biker either smokes marijuana, deals in it, or has contacts for methamphetamine.
666	Patch worn on an outlaw member's colors, or tattoo, symbolizing the mark of Satan.
69	Patch worn on an outlaw member's colors, or tattoo, symbolizing that the wearer has committed cunnilingus or fellatio with witnesses present.
22	Having been in prison.
A.M.A.	American Motorcycle Association. It's composed of average people who like motorcycles and the companionship of club activity. They are seldom intentionally a problem to police and are usually willing to cooperate with law enforcement. According to the A.M.A., they constitute 99% of the nation's cyclists.
Angel Dust	Terminology for P.C.P.
Angels' Bible	Harley-Davidson motorcycle manual. Frequently used for their private weddings and torn up for divorce proceedings.
Ape-hangers	High rising handlebars on motorcycles. Derived from the fact that bikers dangle their arms over them in ape fashion.
A.F.F.A.	Angels Forever Forever Angels
A.F.F.L.	Angels Forever Forever Loaded
Back Pack	Full colors tattooed on member's back.
B.F.F.B.	Bandidos Forever Forever Brothers
B.F.F.P.	Brothers Forever Forever Pagan
Bible	Harley-Davidson repair manual
B.T.B.F.	Bikers Together Bikers Forever
Catwalk	Drive with front wheel off the ground. Also known as wheelie.
Chopper	Chopped or cut down motorcycle. All unnecessary equipment stripped with only the bare essentials left on the bike. Usually the front brake and fender removed, wheel fork extended forward and the handlebars set high.
Citizen	A cyclist who belongs to the A.M.A., not a member of the 1% club.
Class	To do something out of the ordinary, usually an act which is violent and/or shocking to the public.
Colors	The official uniform of all outlaw motorcycle gangs. The colors consist of a sleeveless levi or leather jacket, with club patch on the back, and various other patches, pins, and Nazi metals attached to the front. Colors belong to the club, are worn only by male members, and are always held sacred by outlaw gang members.
Crash Truck	A van, panel truck, or converted school bus that follows the motorcycle gangs runs, and picks up broken down bikes. Also known to carry the club's weapons, drugs, supplies, and camping gear. Usually driven by one of the females.
Cross	An emblem worn by 1%ers, either as an earring, patch or pin attached to the colors.
	White cross—Earned when a person digs open a grave, removes an article from the deceased with witnesses present, and wears it on his colors.
	Red cross—Earned by committing homosexual fellatio with witnesses present

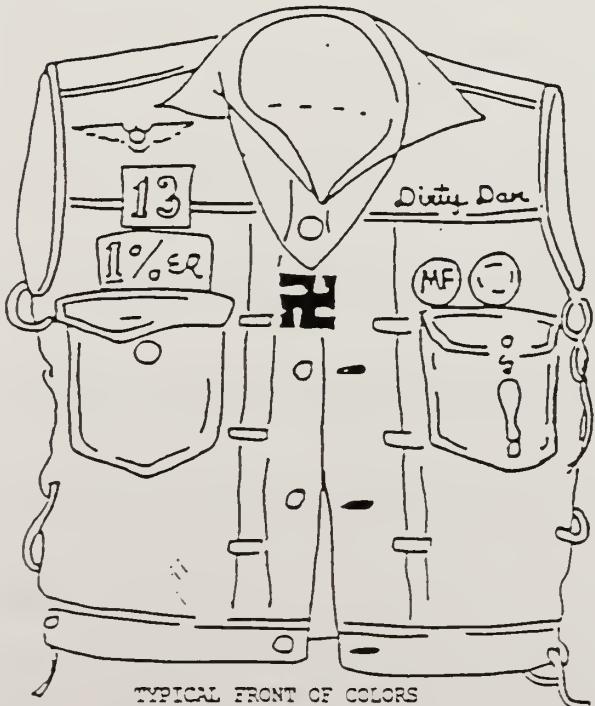
Filthy Few- Killed

DeQuillo- Fight police

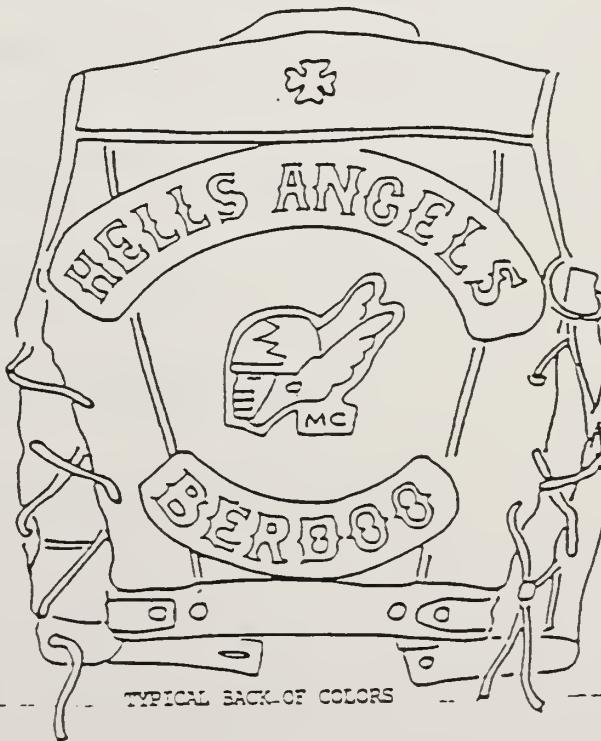
Cutie	A female picked up off the street and taken to the clubhouse or other place for a party. She is the victim of a gang bang, rape and beating. Later, she is released with threats on her life and family if she talks to police.
D.F.F.L.	Dope Forever Forever Loaded
Dresser	Large Harley-davidson motorcycle with custom trim, saddle bags; used in bike shows.
Eightball	Patch worn on colors, earned by committing homosexual sodomy with witnesses present.
Fash Truck	Sanie as crash truck. This term comes from Canada.
Fly Colors	To ride on a motorcycle wearing colors.
Free Rider	An individual who shares the same values and enjoys the same life-style as outlaw gang members but who prefers to keep a degree of freedom of choice by not formally belonging to one specific club.
F.T.W.	Standing for "Fuck the World." these initials are found on membership cards, as tattoos, and are patches or pins on colors.
Garbage Wagon	A stock motorcycle with standard parts intact, loaded with saddlebags and chrome, as distinct from a chopper.
Hardtail	A rigid motorcycle frame with no shock absorbing device on the rear.
Heat	Law enforcement officer, also known as The Man.
Hog	Harley-Davidson motorcycle.
Jap-Scrap	Japanese motorcycles or foreign made bikes.
Knucklehead	A type of Harley-Davidson engine manufactured prior to 1948, which was characterized by large nuts on the right side of engine above the cylinders. Appearance is somewhat similar to knuckles.
Legal Name	Most outlaw motorcycle club members have nicknames or club names which are called "Leg Names" by club members. They are also called "Street Names."
Loner	See "Free Rider."
Mama	A girl available to all club members, usually sexually.
M.C.	Patch on colors, meaning motorcycle club.
Nomad	They are members of a motorcycle gang and will wear the club's colors. The bottom rocker will read "Nomad." In some clubs they are the enforcers. They do not belong to any one chapter. He will attend club meetings and pay required dues to different chapters, depending on his travels.
O.F.F.O.	Outlaws Forever Forever Outlaws
Old Lady	Wife or steady girlfriend of a club member.
Originals	A member's first set of colors which are never to be cleaned.
Participate	To aid a member in a fight by ganging up on the opponent.
P.O.B.O.B.	Pissed Off Bastards of Bloomington—the original gang that later developed into the Hell's Angels.
P.P.D.S.P.E.- M.F.O.B.B.T.	"Pill Popping Dope Smoking Pussy Eating Mother Fuckin' Outlaw Brothers Bikin' Together" found on tattoos, colors, and business cards.
Probate	Club membership hopefuls, who ride with the gang during their probationary period. After this time a unanimous vote must be cast by the membership for acceptance, initiation, and awarding of colors.
Prospect	A prospective member.

Pull a Train	For a girl to have sexual intercourse with each man in the group, any way he would like it, one after another.
Run	A club sanctioned outing for a day, weekend, or week, to a certain location for a party, camping, or special event. Sometimes with other chapters and/or clubs.
Sheep	Same as "Mama."
Sissy Bars	Bars, often high bars, on the rear of a motorcycle used as a back-rest for a passenger.
Static	Trouble or harassment from law enforcement authorities or other members of motorcycle clubs.
Striker	A prospective member; term normally used by Canadian clubs.
Suck to the Bulls	Talk or act friendly towards policemen.
The Man	Police or Law Enforcement Officer
Turn Out	When all members come together in the case of an initiation for a new member, or for a girl to pull a train for the first time.
War Wagon	A vehicle used to transport the club's arsenal during an outing when trouble is expected from other clubs.
White Power Fist	Patch worn on colors which displays the gang's racial ideals and philosophies of White supremacy.
Wings	An emblem worn by 1%ers, as a pin or patch (cloth) attached to the colors. All wing earning must be witnessed.
	Black Wings—Earned when the wearer performs cunnilingus on a Black woman.
	Black on Red—Background wings—earned when the wearer performs cunnilingus on a menstruating Black woman.
	Brown Wings—Earned when the wearer performs oral sex with a woman's anus.
	Golden Wings—Earned when the wearer performs sexual relations with a woman during a gang splash of more than 15 persons.
	Green Wings—Earned when the wearer performs cunnilingus on a venereally diseased woman.
	Purple Wings—Earned when the wearer performs oral sex with a dead woman.
	Red Wings—Earned when the wearer performs cunnilingus on a menstruating White woman.
	White Wings—Earned when the wearer performs cunnilingus on a White woman.
	Yellow Wings—Earned when the wearer performs cunnilingus on an Asiatic or Chinese woman.

#### SOUTHERN CALIFORNIA COLORS



TYPICAL FRONT OF COLORS



# **ELDERLY ISSUES**

## ELDER PROTECTIVE SERVICES TRAINING

### PRETEST

Your Occupation: \_\_\_\_\_

Today's Date: \_\_\_\_\_

Place of work: \_\_\_\_\_

1. How old must a person be to receive assistance from elder protective services?
2. Does elder protective services help people who reside in nursing facilities?
3. What kinds of incidents must you report to elder protective services?
4. What must you also do if you make an oral report to elder protective services?
5. Can you be penalized for not reporting your suspicions about abuse or neglect?
6. Can you be the subject of legal action for having filed a report of elder abuse?
7. What will Elder Services do after you make a report to them?
8. Can elder protective services help an elder who refuses assistance?
9. Can a family member decline protective services for another?
10. Can elder protective services help an elder who is self-neglecting?
11. What is the statewide emergency Elder Abuse Hotline telephone number?

## DEMOCRAPHICS OF AGING

1. Q: Since 1900, how many years do you think have been added to average life expectancy in this country?  
A: A 6 years  
B 16 years  
C 26 years  
D 36 years
2. Q: In Shakespeare's day, what percentage of children died by the age of 15?  
A: A 40 percent  
B 50 percent  
C 60 percent  
D 70 percent
3. Q: In 1900, those who lived to the age of 65 constituted only 4 percent of the U.S. population. By 1990, what was the percentage of those over 65?  
A: A 6 percent  
B 12 percent  
C 18 percent  
D 24 percent
4. Q: What is the projected percentage of those over 65 in the U.S. by the year 2020?  
A: A 15 percent  
B 20 percent  
C 25 percent  
D 30 percent
5. Q: What is the fastest-growing segment of our population by age?  
A: A 75 and over  
B 80 and over  
C 85 and over  
D 90 and over

# FEAR, VULNERABILITY, VICTIMIZATION AND THE POLICE RESPONSE: COMMUNITY OUTREACH, COMMUNICATION, COMPASSION

## I. LAW ENFORCEMENT RESPONSE: COMMUNITY OUTREACH

### A. PERSPECTIVE

Law enforcement agencies can implement programs that will help older people to understand the most prevalent crimes confronting them and the most effective measures to lessen their vulnerability. Suggested actions are:

#### 1. *FOCUS ON THE REAL CRIME PROBLEM*

Recognize that the public's fear of crime is not always based upon actual victimization. Determine if local attitudes and fears about crime reflect reality or speculation based upon fear or publicity.

#### 2. *EDUCATE THE PUBLIC BY TEACHING RISK REDUCTION*

Inform citizens of the facts, using crime analysis data as necessary. Replace myths and rumors with information that applies to the jurisdictions in which they live. This will influence people to concentrate their efforts on the likely possibilities of criminal behavior. Citizens of any age who are tormented by unlikelihoods, cannot expect to take effective actions to reduce their vulnerabilities.

Because a high percentage of crime is opportunistic and requires only a low level of skill to accomplish, officers should inform people that they are not defenseless against criminal activity.

Often, simple and easily implemented measures will be sufficient to discourage or frustrate many criminals. Examples are: locking homes and cars, walking in lighted areas away from buildings, walking in pairs, being aware of one's surroundings, carrying only small amounts of money, never leaving a purse unattended, and carrying a purse close to the body.

It can be especially useful and encouraging to older people to learn that they can exercise some degree of control to lessen their vulnerability. Because of their fears, many older people have come to believe that there is little they can do to avoid becoming crime victims other than isolating themselves from their friends.

People of all ages must be cautioned that some criminal activity is insidious and can be very difficult to detect. Frauds, street swindles, and various home invasion schemes fall into this category. Older people should understand that they cannot be defrauded unless they cooperate with the criminal. Learning to "just say no" will empower them to control the situation and frustrate the criminal attempt.

Finally, older people need to recognize that they are vulnerable to caretaker abuse and financial exploitation. Thus, they must take steps to keep their finances in order and outside the control of one person. They must also maintain their social contacts so that they do not rely exclusively on one caregiver for their social and living needs.

#### 3. *RECOGNIZE THE SPECIAL NEEDS OF OLDER PEOPLE*

Design crime prevention presentations and select locations that will interfere as little as possible with the ability of older people to see and hear.

Speakers should limit presentations to older audiences to 30 or 40 minutes and speak slowly without sounding artificial.

In addition, it is best to integrate presentations into activities where seniors are already gathered — for example, during a lunch at the local senior center or during a break at the church bingo game. Elders typically find it less convenient to make a special trip than to have the presentation be a part of their normal activities. Equally important, elders may appreciate the message more when it is communicated in a less threatening environment during an enjoyable activity, rather than the focal point of a formal meeting.

Finally, it is very helpful to be knowledgeable about the social service agencies in the community that provide assistance to older people.

## B. PROGRAMMATIC EFFORTS

### 1. TRIAD PROG: 14

The TRIAD is a formal cooperative agreement between chiefs and sheriffs and representatives of AARP. TRIADS take a variety of forms and involve such activities as crime prevention training, adopt-a-senior programs, volunteers, telephone reassurance, neighborhood watch, etc. Currently, the Sheriff of Norfolk County and the Sheriff and District Attorney of Hampshire County have excellent programs to help seniors learn about crime prevention. The Sheriff of Franklin County and police and protective service agencies in the Merrimack Valley have also begun to institute programs.

For more information about TRIAD, contact the key people listed at the end of this chapter.

### 2. SENIOR VICTIM ASSISTANCE TEAMS

Referrals are often made to legal, medical and social services for the elderly. Many of these units help the elderly victim complete necessary forms to replace critical identification and credit cards, as well as licenses, food stamps, social security checks and medical equipment. Help

may also be provided to repair broken locks or windows to secure the older person's home. Some programs use volunteers or police personnel to assist elderly crime victims through the trauma and ensuing criminal justice process, and to provide transportation for court appearances and medical appointments.

## 3. PROGRAMS FOR AT-RISK ELDERLY CITIZENS

### a. Database

Police can create a database for citizens to voluntarily submit information such as their names, addresses, doctor's name, hospital, chronic illness, neighbor's name, whether neighbor has a key, next of kin, etc. Officers are then aware of this information when dispatched. These programs are also used to help citizens with Alzheimer's.

### b. Escort Services

Escort services help reduce opportunities for victimization and fear of crime.

### c. Telephone Crisis Hotlines

Volunteers take calls and can assist elders with their needs. Volunteers also prevent abuse by maintaining contact with elders who cannot leave their homes on a daily basis. If the elder does not answer the phone, the police department is notified and officers check on the residence.

### d. Adopt-a-Senior

This program matches officers with seniors who are isolated and vulnerable to abuse. Officers are encouraged to make contact on a regular basis, assess needs, and refer them to appropriate resources.

### e. Medical Information Inside Refrigerator

Police encourage elder residents to place medical information inside a tube, which the department provides, inside their refrigerators. The refrigerator was selected

as the storage area because of its resistance to fire. A sticker is placed on the refrigerator that indicates that emergency information is stored inside. Police are instructed to look for these stickers when called to an emergency at an elder's home.

f. 3-Panel Mailing Report

Patrol officers are given an innovative 3-panel, self-mailing brochure. An officer who identifies an older person who wants non-emergency services will give the elderly citizen the first panel of the brochure, informing the individual that a social worker will contact them. The officer then completes the middle panel of the brochure with a description of the problem and the contact information. The officer mails it to social service coordinator. After assessing and providing services, the social worker completes the third panel of the brochure with a description of the action taken and returns it to the original officer to provide feedback.

g. Neighborhood Canvass

Police and Adult Protective Services use volunteers trained by the department to go door-to-door to canvass citizens in neighborhoods with high concentrations of older adults to determine their needs and assess their safety.

## II. LAW ENFORCEMENT RESPONSE: THE ELDERLY VICTIM OR WITNESS

### A. THE CONTEXT

In general, reactions to victimization depend largely on: (1) the intensity and duration of the criminal event and (2) the victim's personality, life history, and perception of recovery potential. These factors are far more important than age in determining the reaction to crime and in predicting how a victim will respond to counseling efforts.

However, older crime victims may be subject to additional factors that potentially increase their crime stress reactions.

#### *1. LOSS OF RECOVERY POTENTIAL*

Physical injuries and financial losses may be beyond the recovery potential of some older victims. A younger victim, suffering the same injuries or financial loss, may have more physical and financial resilience.

#### *2. INTOLERANCE OF LOSSES AND ADJUSTMENTS*

As people grow older, they experience a series of losses that are caused by events other than crime. They lose their spouses; children (even if they only move away); friends and relatives through death; jobs and levels of income; the ability to drive; and certain aspects of their health. Many older people understand that these are mostly natural events and can usually learn to cope with them. As each loss occurs, however, remaining elements over which they still exercise some control become more important to them and they become less tolerant as each new loss occurs. This can cause extreme stress reactions when losses occur to property and health as a result of criminal activity. Furthermore, older people have had to adjust to many changes in their lives, such as advances in technology and changes in social attitudes. If victimized, they will be required, against their will, to make further adjustments.

### 3. DISTORTION OF THE IMPACT OF THE CRIMINAL EVENT -

Depending upon the individual, any one of these factors may be significant enough to distort the victim's perception of the criminal event and intensify reactions to it. If this distortion occurs, it is important for victim assistance and law enforcement personnel to understand that the victim's reactions are most likely not caused by a mental disability that some might attribute to advanced age. Rather, they should view these reactions as normal when they consider the victim's life circumstances.

If this is understood, and those working with older victims are perceptive and sensitive, most older victims can re-establish some degree of control following the crime. This psychological control can be manifested in ways that are useful to law enforcement — such as a willingness to cooperate with authorities, identify the perpetrator and testify in court.

## B. ATTITUDE AND ASSISTANCE

Within this complex framework of emotions resulting from victimization, techniques exist that can help law enforcement deal more effectively with older crime victims. In addition, the next section of this manual highlights ways to help older people overcome the vision and hearing losses they often experience.

### 1. SHOW RESPECT

Showing respect should not be a problem. Simple courtesy is all that is required. For example, avoid the use of terms such as "young fella" or "old timer." Older people interpret such expressions as signs of disrespect and talking down to them. Remember, although service providers and officials may have many years of experience, they look very young to an older victim. This may make it very difficult for an older person to relate details of criminal acts such as sex crimes and certain frauds.

Another way to demonstrate respect is to instill a sense of control through the interview. This can be accomplished through simple actions such

as asking for permission to enter the home or to sit down, or asking the older person what they would like to be called. Tell the victim what to expect during the investigation.

### 2. ASSUME MENTAL CAPABILITY

Do not assume senility. Remember that the older victim may have just been subjected to a terrifying experience and the shock may initially block their ability to think in a rational manner and recall details of the crime. This also happens in many situations involving younger victims.

It is a myth that the majority of people over 65 are senile or mentally dysfunctional (defective memories or disoriented). It is true that most people experience some loss of memory and mental speed as they grow older; however, only 10 to 15% of adults over 60 have severe memory problems. Memory losses, for people of any age, may be the result of many factors such as depression, anxiety, grief, fatigue, various illnesses and medications, or failure to acquire the information correctly in the first place.

Only 5 to 10% of people over 65 are afflicted with Alzheimer's disease.

Dementia, which is the accepted term for intellectual deterioration, is not part of the normal aging process. The likelihood of contracting dementia, however, does increase with age.

The officer should also bear in mind that the incidence of paranoid disorders increases with age, although it is still very uncommon among the elderly. Paranoid disorder is an irrational suspiciousness that takes a variety of forms. It may be due to social isolation, a sense of powerlessness, or progressive sensory decline. Hearing impairments may be a contributing factor in paranoid disorders.

At times, law enforcement officers may be called upon to respond to abuse reports that come from people suffering from paranoid disorders. Self neglect may also occur as a

result of paranoid tendencies. Consequently, it is extremely important to distinguish between actual threats and unfounded suspicions, as in any case of reported abuse.

Because the incidence of paranoid disorders increases with age, it is important for law enforcement officers to understand how factors like sensory deficits can contribute to suspiciousness so that they may be sensitive to actions that may provoke fear. Still, remember that paranoid disorders are uncommon, and officers should not discount victims' claims by assuming that they are the result of irrational fears.

### ***3. RESPOND TO HANDSHAKE AND TOUCH***

Because of the stresses they are enduring, some older victims may hold a handshake longer than would normally be expected. Do not pull away before they begin to release their grip. Some may also periodically touch the officer when talking; again, it is best not to pull away.

### ***4. ADJUST POSTURE AND BODY LANGUAGE***

Keep reasonably close to the eye level of older victims; sit when they sit and do not stand over them. Tone down all body language, which will help them to relax.

Some older people stand close (within a foot or less) to others. This may be their normal tendency, or their nearness to the officer may be to compensate for seeing or hearing difficulties. Be sensitive to this tendency (within reason) by avoiding the urge to back away.

### ***5. COMMUNICATE CLEARLY***

The way that the officer communicates and the environment where the interaction takes place can impact whether an elder, who may have a hearing or sight problem, comprehends what is happening.

Keep the voice as sympathetic and conversational as possible and speak slowly. Avoid any chance that the victim will be further frightened or intimidated. More discussion on

this point follows in the next section.

### ***6. EXHIBIT COMPASSION***

Provide victims of any age what they need most — usually someone to talk to who can reassure them, answer their questions, and provide referral information. Let your actions and words tell them that you are sympathetic and that you care. Compassion does not mean that you have to indulge victims. In fact, contrary to belief, establishing rapport can increase your efficiency in handling situations. Once elders understand that you care about them, it is easier to establish groundrules for a professional relationship. They can accept that you have a job to do and that there are limits on how much attention you can give to their case. The key is to tell the truth with compassion and to do what you say you are going to do.

## **C. VISION AND HEARING DIFFICULTIES**

### ***1. THE CHALLENGE***

Officers face a distinct challenge: they must be able to recognize when older persons, and even some younger persons for that matter, have difficulty seeing or hearing, and they must be able to compensate for the problem. Many people (of all ages) tend to mask their hearing or vision problems out of embarrassment, thus making communication almost impossible unless the officer can recognize clues (often very subtle) that the person cannot hear or see well.

Police should also be sensitive to the fact that, in some circumstances, the traditional respect that most older persons have for the police can further mask vision and hearing losses. Some older persons may be reluctant to insist that officers repeat statements, explain the meaning of certain terms, or ask that they move from an area where intense lighting is causing glare.

### ***2. THE CONSEQUENCES OF MISUNDERSTANDING***

If the police fail to detect subtle clues that the older person (as a victim, witness, complainant, or even accused) cannot hear or see well, they

may believe that the older person is not interested in resolving the situation or is mentally deficient. Or, more dramatically, officers may fail to solve a case that they could have.

#### D. THE PROPER PERSPECTIVE

To avoid the very serious problems that could develop through the failure to recognize that a person has vision or hearing problems, police officers should keep the following in mind:

##### 1. EXPECT VISION/HEARING IMPAIRMENT

Most, but not all, older persons have some vision or hearing deficiencies.

##### 2. CONSIDER THE ENVIRONMENT

Always consider whether the environment is facilitating or hindering an older person's vision and hearing.

##### 3. KNOW THE CLUES

Know the most common clues that people can unintentionally give when they are having difficulty seeing or hearing.

##### 4. COMPENSATE

Be prepared to react by implementing compensation techniques.

#### E. VISION PROBLEMS -- CLUES AND COMPENSATION TECHNIQUES

About 75% of all older women and over half of all older men experience moderate to severe deterioration in visual functions. Many younger adults have less than perfect vision as well.

Common vision impairments, their clues and compensation techniques are discussed below.

##### 1. SENSITIVITY TO GLARE

**Definition:** Glare is excessive light that originates from either concentrated light sources (for example, car headlights from the opposite traffic lane shining directly into the eyes of a driver) or from objects that scatter light (for example, shiny paper or metallic-colored inks).

**Clues:** People who experience excessive glare may squint, shield their eyes, or turn away from the light source.

**Compensation techniques:** In a law enforcement setting, consider problems of glare when approaching older persons at a traffic stop. During the day, try to avoid approaching them from the direction of the sun. At night, avoid shining flashlights directly into someone's wallet or purse. Also, consider possible glare problems for those viewing line-ups and reviewing photos in mug books.

During presentations, glare problems can be largely avoided. Adjust lights to distribute and balance the light level evenly and avoid glossy paper or metallic inks when preparing reading materials or presentation aids.

##### 2. DECREASED SENSITIVITY TO LIGHT

**Definition:** Light sensitivity refers to the amount of light needed to see various objects. As people age their eyes may let in less light and function less efficiently when lighting conditions are poor.

**Clues:** Those with this problem may appear uncertain when entering a building or room or may appear unable to read material under conditions of less than ideal light.

**Compensation techniques:** Balance the need for increased light with the requirement to avoid glare. Determine whether adequate lighting is available before evaluating an elderly person's response to a request, such as removing a driver's license from a wallet or identifying an individual in a police line-up.

### 3. DIFFICULTY DISTINGUISHING COLORS

**Definition:** As people age, the lenses of their eyes may yellow. This condition reduces the amount of light entering the eye, thus reducing the eye's ability to distinguish colors.

**Clues:** People who have difficulty distinguishing colors may not be able to identify the color of clothing, cars, or other objects they may have observed during the commission of a crime. Do not assume that this is a memory problem, especially if they are able to recall other information.

**Compensation techniques:** When presenting information, select colors from different ends of the color spectrum. Avoid mixing purples, blues and greens. Ensure that lettering stands out clearly from its background.

### 4. LOSS OF DEPTH PERCEPTION

**Definition:** Depth perception is the ability to judge distances between objects.

**Clues:** Individuals who have poor depth perception may hesitate when crossing streets because they are not confident of their ability to estimate distances from oncoming vehicles.

Witnesses who have poor depth perception may not be able to describe a crime scene fully; however, they may be able to give other perfectly reliable information, such as identification of suspects, sequence of events, color of clothing, and so on.

**Compensation techniques:** When interviewing a witness, give concrete examples to help them gauge distances as best they can (for example, do not ask for a distance measurement in terms of feet, perhaps use car lengths or some other clearer standard of measurement).

During presentations, arrange seating to limit variations in distance from the speaker. Keep transparencies, charts, and other training devices the same distance from the audience.

### F. HEARING PROBLEMS -- CLUES AND COMPENSATION TECHNIQUES

Fifteen million Americans have significantly impaired hearing. Fewer than half of these people are 65 or older, and a good number were born with hearing problems. Even so, it is estimated that some hearing loss occurs in one of every four persons over the age of 60.

Deterioration of hearing is usually gradual. As a result, most people are not aware of the degree to which their hearing deficiencies may be affecting their ability to communicate.

### G. HEARING IMPAIRMENT CLUES

1. *LACK OF NORMAL RESPONSE TO SOUNDS MOST PEOPLE HEAR;*
2. *INATTENTIVENESS OR DIFFICULTY FOLLOWING SPOKEN DIRECTIONS;*
3. *FREQUENT REQUESTS OF SPEAKERS TO REPEAT STATEMENTS;*
4. *TURNING ONE EAR TOWARD THE SPEAKER;*
5. *CUPPING A HAND BEHIND ONE EAR TO "CAPTURE" SOUNDS;*
6. *MONOTONOUS OR UNUSUAL VOICE QUALITY;*
7. *UNUSUALLY SOFT OR LOUD SPEECH;*

### H. COMMON TYPES AND COMPENSATION

There are two common types of hearing impairments.

#### 1. VOLUME REDUCTION

**Definition:** Less ability to hear sounds at their actual volume.

**Compensation techniques:****a. Increase Volume, Not Pitch**

Slightly increase the volume of the voice. But understand that too much volume can increase hearing difficulty for some people because many people tend to raise the pitch of their voices when they talk louder. Because most people with hearing problems do not hear sounds in the higher frequency ranges as well as they hear lower sounds, a louder voice (with a higher pitch) may be as difficult for them to hear as one that is too soft.

**b. Speak Slowly**

Speak slowly and distinctly. Use the "extra" time to pronounce the words more carefully.

**2. INABILITY TO HEAR OVER BACKGROUND NOISE**

**Definition:** Background noise originates from unintended sources (for example, police radio, commotion at the scene or in the station) and is often in the lower pitch range. It can cause considerable difficulties since most older adults with hearing problems hear only the low pitched sounds. Therefore, background noise can cover up and distort the sounds people want to hear.

**Compensation techniques:** During investigations, conduct interviews in offices or locations away from sources of noise.

During presentations, eliminate as much noise as possible from outside the presentation room (such as sounds from a corridor) and inside the room (such as the sound from an overhead projector). And begin only after the audience has settled down and become attentive.

**I. OTHER TECHNIQUES****1. FACILITATE LIP READING**

Always face the victim, witness or audience when speaking to them. And have sufficient light to allow the listener or audience to clearly

see your face. These steps will allow those who do not hear well to read your lips.

**2. CONTROL THE PACE**

Make the presentation slow and clear, and control the exchange of information between audience and speaker to ensure that those in attendance need only concentrate on one speaker at a time.

**3. REPEAT QUESTIONS****4. DO NOT EXAGGERATE**

Be careful not to exaggerate any of the above techniques. This could cause some older persons to misinterpret the attitude of the speaker as being condescending.

**KEY CONTACTS**

For more information concerning the TRIAD program, contact:

Kathleen O'Neil Alexander  
Community Education Coordinator  
Hampshire County District Attorney  
One Court Square  
Northampton, MA 01060  
(413) 586-9225

Richard E. O'Leary  
Senior Services Coordinator  
Norfolk Sheriff's Department  
P.O. Box 149  
200 West Street  
Dedham, MA 02027-0149  
(508) 329-3705

A national resource person, who can be of tremendous assistance with manuals and contacts, is:

Betsy Cantrell, Director  
National Sheriffs' Association  
1450 Duke Street  
Alexandria, Virginia 22314  
(703) 836-7827

## THE ELDER ABUSE REPORTING LAW AT A GLANCE

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Under G.L. Chapter 19A, when you have *reasonable cause to believe* that an elder, who is *60 years of age* or older, has suffered or is suffering from elder *abuse* (injury caused by someone's physical, sexual or emotional conduct); or from *financial exploitation* (substantial financial loss to the elder caused by someone's actions or failure to act); or from *neglect* (a caretaker's refusal or failure to provide one or more of the basic necessities of life); or from some combination of abuse, financial exploitation and neglect, you must, as a *mandated reporter*, *immediately make a verbal report* to your local protective service agency or to the elder abuse hotline (1-800-922-2275) and follow that immediate report with a *written report within 48 hours*. You are *protected from civil suit when you file a report*. On the other hand, if you fail to report, you can be subject to a criminal fine of up to \$1,000.

LOCAL PROTECTIVE SERVICE AGENCY: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Contact: \_\_\_\_\_

## ELDER ABUSE QUICK REFERENCE GUIDE

<u>ABUSE</u>	<u>DEFINITION</u>	<u>INDICATORS</u>
<b>PHYSICAL</b>	The infliction or threat of serious physical injury to an elder.	<ul style="list-style-type: none"> <li>• Unexplained injuries, or injuries whose explanation is inconsistent with the nature of the injuries (inc. fractures, punctures, burns, etc.)</li> <li>• Presence of old and new bruising, shape of bruising similar to an object (i.e. hand prints or finger prints.)</li> <li>• Extreme injury.</li> <li>• Torn, stained or bloody underclothing.</li> <li>• Difficulty walking or sitting.</li> <li>• Pain, itching, bruising or bleeding in the genital area.</li> <li>• Unexplained venereal disease or genital infections.</li> </ul>
<b>SEXUAL</b>	Any form of sexual contact or activity without the elder's consent or where the elder is incapable of providing adequate consent.	<ul style="list-style-type: none"> <li>• Hyper-vigilance of the abuser's actions, movements, etc.</li> <li>• Change in eating or sleeping habits.</li> <li>• Depression, withdrawal or agitation.</li> <li>• Exaggerated fear response.</li> </ul>
<b>EMOTIONAL</b>	The infliction of mental or emotional anguish by threat, humiliation or other verbal or non-verbal contact.	<ul style="list-style-type: none"> <li>• Dehydration or malnutrition.</li> <li>• Inadequate or inappropriate clothing.</li> <li>• Decubitus (bed sores.)</li> <li>• Unexplained deterioration of health.</li> <li>• Absence of eyeglasses, hearing aides, etc.</li> <li>• Inadequate supervision or medical care.</li> </ul>
<b>NEGLECT</b>	The failure or refusal by a caretaker to provide one or more of the necessities essential for physical well-being.	<ul style="list-style-type: none"> <li>• Lack of access to checkbook by elder.</li> <li>• Reports of missing valuables.</li> <li>• Lack of access to cash or no available cash.</li> <li>• Disparity between income/assets and lifestyle.</li> <li>• Questionable transfer of property/assets.</li> </ul>
<b>FINANCIAL</b>	The unauthorized use of funds or resources of an elder which results in a substantial loss to the elder to another person.	

CHART CREATED BY JEMMA LAMBERT OF HIGHLAND VALLEY ELDER SERVICES

ELDER ABUSE HOTLINE: 1-800-922-2275

## MANDATORY ELDER ABUSE REPORTING: THE ROLE OF POLICE AND PROTECTIVE SERVICES

### I. ELDER ABUSE REPORTING LAW

#### A. POLICE ARE MANDATORY REPORTERS

In 1983, Massachusetts passed G.L. Chapter 19A, Sections 14-26. This law mandates that police officers and other professionals report elder abuse.

The exact list of reporters is specified in Section 15(a): "Any physician, a medical intern, dentist, nurse, family counselor, probation officer, social worker, policeman, firefighter, emergency medical technician, licensed psychologist, coroner, registered physical therapist, registered occupational therapist, osteopath, podiatrist, executive director of a licensed home health agency or . . . homemaker service agency . . . ." Agency directors must establish procedures for staff members to report instances of abuse which, in turn, trigger the directors' reporting duties.

*Note:* The term "elder abuse" is often used as a shorthand expression that encompasses all three of the reportable conditions under the statute -- elder abuse (physical, sexual and emotional), neglect and financial exploitation.

#### B. PROTECTED POPULATION: 60 AND OVER

All persons who are 60 years old or older and residing in the community are covered by this law.

#### C. REPORTABLE CONDUCT OR CONDITIONS

Mandatory reporters are responsible for reporting three kinds of conduct or conditions. The signs of elder abuse appear at Attachment 1.

##### 1. ABUSE: PHYSICAL, SEXUAL, EMOTIONAL

Abuse is an act or omission (the failure to act) by another person that results in serious physical or emotional injury to an elderly person.

##### a. Physical Abuse

Physical abuse involves the infliction or threat of serious physical injury, either external or internal, including the inappropriate and harmful administration of drugs and medications.

##### b. Sexual Abuse

Any form of sexual contact without the elder's consent or where the elder is incapable of providing adequate consent.

##### c. Emotional Abuse

The infliction of mental or emotional anguish by threat, humiliation, or other verbal or non-verbal conduct. Emotional abuse may result from threats to harm the elder or place the elder in a nursing home.

### 2. FINANCIAL EXPLOITATION

**Definition:** The unauthorized use of funds or resources of an elder which results in a substantial loss to the elder or gain to another person. This is accomplished without the elder's consent, or when the elder is tricked, intimidated or forced into giving consent.

**Type of Perpetrator:** Elder financial exploitation can be categorized by the type of perpetrator. The potential criminal charges remain the same, but the circumstances of the violation, the nature of the investigation, and the appropriate law enforcement response will typically differ depending on the type of perpetrator. The three types perpetrators: (1) *Caretakers* are responsible for the care of the elder and use their personal relationship to gain access to funds or property; (2) *Fiduciaries* are professionals occupying positions of trust -- for

example, a lawyer or an accountant — which enable them to divert funds for their own benefit; and (3) *Scam Artists* are strangers who appear in person, call on the telephone or use the mail in order to carry various schemes to take their elder victims' money. The first two categories of exploitation *must* be reported to protective services. However, police are not required to report scam artist exploitation. Instead, officers carry the lead in these types of investigations. When in doubt though, be sure to report or, at a minimum, consult with protective services.

**Exceptions:** A person's conduct is not considered financial exploitation if the elder:

a. **Consent**

Knowingly consented to the transaction; or

b. **Gift:**

Knowingly decided to give a gift to the alleged exploiter; or

c. **Fraud**

Was the victim of a fraudulent scheme or property crime perpetrated by a stranger; or

d. **Consumer Fraud**

Was the victim of an unfair consumer practice.

**3. NEGLECT**

a. **Reportable Neglect**

Reportable neglect occurs when a "caretaker" fails or refuses to provide one or more of the necessities essential for the physical, intellectual and emotional wellbeing of an elder, such as food, clothing, shelter, social contact, personal care and medical care, which results in serious physical or emotional injury to the elder.

Massachusetts does not differentiate between active and passive neglect in its abuse reporting laws. Distinguishing between passive or active neglect is often impossible because the intent or motives of the caregiver is often difficult to determine. However, while the distinction is not important for reporting purposes, it is crucial in determining what kinds of services will be provided and whether there are likely to be other forms of abuse accompanying the neglect.

b. **Significance of the Caretaker Requirement**

Only neglect by a caretaker is screened in for investigation by protective services in contrast with physical, sexual and emotional abuse and financial exploitation, which are screened in for investigation regardless of the elder victim's caretaking relationship to the alleged perpetrator.

c. **Caretaker Defined**

In general, a caretaker relationship arises when it reasonably appears that the elder relies on the person for substantial care — whether the caretaker performs on a voluntary or paid basis. A husband, wife, child, sibling or other relative is presumed to be a caretaker if they are living with the elder or providing substantial assistance. The term includes, for example, a family member who lives with the elder, a privately paid nurse, and also a neighbor or friend who stops by regularly to provide lunch. A caretaker relationship may also be present when a person is a conservator, guardian or holder of a power of attorney. Such a person must use the elder's assets for the elder's benefit.

d. **Self-Neglect**

Technically, officers are not required by the elder abuse statute to report instances of self-neglect — that is, when elders who live alone cause their own neglect. However, officers may and often want to report these

situations to protective services. Protective services has the ability to access the *Elder At Risk Program*, which began in 1990. The purpose of this program is to target frail, self-neglecting, often marginally competent elders living in the community who are often not willing to accept services. An elder may be "at risk" due to a variety of factors including alcohol and drug problems, mental health problems, dementia, physical illness and inadequate resources. The goal is to provide short-term problem-focused intervention to enable elders to remain safely in the community.

#### D. LEVEL OF INFORMATION: REASONABLE CAUSE TO BELIEVE

Before making their report, officers must have "reasonable cause to believe" that the elder has died from, or has suffered or is suffering from abuse, neglect or financial exploitation. The standard of "reasonable cause" is very broad. It is not intended to restrict the reporting of cases or the acceptance of reports and written documentation of "reasonable cause" is not required. *Op. Atty. Gen.*, May 27, 1975, p. 139.

#### E. LOCATION OF ABUSE

The Chapter 19A elder abuse reporting law covers all elder victimization *except* that which takes place in *long-term care facilities*. Thus, abuse to elders in private homes, apartments, housing projects, and public areas are the responsibility of local protective service agencies. However, incidents that occur in nursing, rest or convalescent homes are covered under a different reporting law, G.L. c. 111, sec. 72F-72L. When elders are abused in a nursing home setting, mandated reports are provided to the Department of Public Health (522-3700 - 24 Hour Assistance Line) which, in conjunction with the Attorney General's Office (Medicaid Fraud Unit 727-2200, extension 3801), conducts the investigation.

#### F. REPORTING PROCEDURES

To appropriately report elder victimization, officers must do the following:

##### 1. IMMEDIATE ORAL REPORT

The oral report is given to the Executive Office of Elder Affairs (EOEA) or its designated local protective service agency (PSA).

Practical reporting techniques:

###### a. Local PSA

If possible, officers should always report the incident to their local PSA since that is the agency who will conduct the investigation and provide any follow-up services.

###### b. On-scene Officer Should Report

It is best if the on-scene officer calls in the report and not an officer who received the report second-hand. This approach is the most effective because the on-scene officer is in the best position to answer questions posed by the protective service worker which, in turn, allows the worker to properly assess what kind of response is needed.

###### c. Hotline Should Always Be Used After Hours

To report abuse during non-business hours - nights, weekends, holidays - call the state hotline number: 1-800-922-2275 V/TDD. The screener at the hotline will decide whether an emergency response is warranted and convey the information to the appropriate worker at the local PSA. If it is an emergency, a PSA worker will respond immediately. But remember, officers can use the hotline to telephone reports of any nature during non-business hours. It is not restricted to emergencies. In fact, the Hotline staff responded to 9,028 incoming calls in 1992. Of those calls, 606 required that protective service workers be paged to provide emergency intervention.

## 2. WRITTEN REPORT WITHIN 48 HOURS

Within 48 hours of the oral report, an officer must file a written report

### a. Report Form

The EOEA has created a form to facilitate written reports. The completed form, which appears at Attachment 2, should be sent to the local PSA. Officers can attach their police reports to the form in order to avoid having to duplicate information.

### b. Confidentiality Rules

Regardless of the nature of the report — whether mandatory or not — protective services will keep the reporter's name confidential. As a practical matter, however, the subjects of the report will usually figure out that the report originated with the responding officer who came to their house. However, the name will not be divulged by protective services.

The statute explicitly exempts mandated reporters from the coverage of confidentiality rules. This means officers may furnish protective services with *any reports* and information. This includes criminal offender information, such as a probation record, since protective services is CORI cleared.

## G. POTENTIAL CIVIL OR CRIMINAL LIABILITY

If a mandatory reporter files a report, there is never civil or criminal liability; unless the reporter actually perpetrated the abuse. The statutory language even suggests that medical personnel and police officers are completely insulated from liability, even if their reports are not made in good faith! Finally, supervisors may not retaliate, in any manner, against employee/reporters.

However, police officers who fail to file reports are subject to criminal prosecution and the imposition of a fine up to \$1,000. Liability is also possible.

## II. THE PROTECTIVE SERVICES NETWORK

### A. THE EXECUTIVE OFFICE OF ELDER AFFAIRS (EOEA) RESPONSIBILITIES

The Executive Office of Elder Affairs (EOEA) coordinates a state-wide system of 27 local protective service agencies.

EOEA also establishes financial guidelines. If the elder can pay, then protective services collects all or part of the cost, provided that the elder is notified before services commence. If the elder cannot afford services, they are provided at no cost.

### B. PROTECTIVE SERVICE AGENCY (PSA) RESPONSIBILITIES

#### I. INVESTIGATION

The PSA must:

- a. Receive reports on a 24 hour basis.
- b. Investigate reports by visiting the elderly victim's residence and consulting, if necessary, with other service agencies.
- c. Communicate with the elderly victim by providing written notice of the assessment and allowing the elderly person to review the file upon request.
- d. Complete the assessment within 24 hours after receiving an emergency report.
- e. Refer to the District Attorney (DA) every reported case in which the PSA has reasonable cause to believe that an elder has suffered serious abuse or died from abuse:

(1) *If Death Resulted, DA Referral Must be Immediate.* If a report of death as a result of abuse is made to the DA, then the PSA shall cease investigating in order not to jeopardize the DA's ability to

EXECUTIVE OFFICE OF ELDER AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS

ELDER ABUSE MANDATED REPORTER FORM

This form should be returned within 48 hours of the oral report, to the following Designated Protective Service Agency:

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Reporter Information:

Name: \_\_\_\_\_ Occupation: \_\_\_\_\_  
Agency: \_\_\_\_\_ Address: \_\_\_\_\_  
Tel.: \_\_\_\_\_

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Information about Elder Being Allegedly Abused/Neglected:

Name: \_\_\_\_\_  
Address:  
Permanent: \_\_\_\_\_  
Temporary: \_\_\_\_\_  
Tel.: \_\_\_\_\_ Preferred  
Approximate Age: \_\_\_\_\_ Sex: \_\_\_\_\_ Language: \_\_\_\_\_  
Is elder aware report is being made? \_\_\_\_\_ Is English spoken? \_\_\_\_\_

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Description of alleged abuse incidents and/or condition of neglect:  
(Include name, dates, times, and specific facts and any information regarding prior incidents of abuse/neglect.)

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Persons or Agencies Involved or Knowledgeable about Elder:

Name \_\_\_\_\_ Age \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_

Name \_\_\_\_\_ Age \_\_\_\_\_ Relationship \_\_\_\_\_  
Address \_\_\_\_\_ Phone \_\_\_\_\_

Is medical treatment required immediately? Yes \_\_\_\_\_ No \_\_\_\_\_ Possibly \_\_\_\_\_  
Describe treatment needed or already received: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Does reporter believe the situation constitutes an emergency?

Yes \_\_\_\_\_ No \_\_\_\_\_ Possibly \_\_\_\_\_

Describe the risk of death or immediate and serious harm: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Additional information or comments:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Reporter

Date

investigate a possible homicide and pursue criminal prosecution when appropriate.

**(2) If Nonfatal Abuse Occurred, DA Referral Must be Within 48 Hours.**

- f. Inform the reporter within 45 days of the PSA's response to the abuse report (for example, whether case was opened, referred to the DA, etc.).
- g. Properly handle records by keeping all reports confidential except those investigative reports referred to the DA. And, if the allegations in a report are unsubstantiated, related records must be purged within 3 months.

## **2. PROTECTIVE SERVICES**

The PSA develops a "Service Plan" that is appropriate to the functional capacity, situation, and resources of the abused elder. The plan utilizes the "least restrictive alternative."

The existence of various profiles of perpetrators and victims by type of mistreatment suggest that diverse approaches for treatment must be considered. In-home services, respite care, counseling, and day care might be the most effective interventions for very dependent and impaired victims neglected by overburdened caregivers, but such a treatment plan would not be appropriate for the fairly independent older person, physically abused by a son or grandson who is extorting money to support a drug habit. In this situation, legal intervention, victim support groups, drug treatment programs for the abuser, and housing services may be more effective strategies.

Protective services include, but are not limited to:

- a. The capacity to respond to an emergency;
- b. Assistance by a caseworker, homemaker, or home health aide;

- c. Transportation;
- d. Emergency financial and legal assistance;
- e. Medical and/or mental health care;
- f. Shelter;
- g. Nutrition services;
- h. Foster care and/or adult day care services;
- i. Petitioning the court, if appropriate, for:
  - (1) A *restraining order*, and/or
  - (2) The *appointment of a Guardian or Conservator* for the elderly person; and/or
  - (3) An *injunction* to prohibit any interference with the provision of services to the elder.

## **3. WHAT ADULT PROTECTIVE SERVICES CAN DO FOR LAW ENFORCEMENT**

Clearly, protective services offers important assistance to law enforcement. Specifically, protective services can often provide assistance in emergency situations; assist with the investigation and interrogation of physical and sexual abuse victims; assist by securing services for chronic substance abusers, by relocating an elderly or disabled adult who has been evicted, by securing services for "street people," by investigating a caretaker's theft of resources and property. Protective services can also provide services and support to an elder when a caretaker is arrested or removed, which tends to ease the mind of law enforcement personnel. The PSA can help ensure that elders on probation or parole receive the necessary resources to allow them to successfully reside in the community. Above all, protective services is available to provide advice and support when questionable situations relating to elders occur.

### C. SELF-DETERMINATION, CONSENT, AND LACK OF CAPACITY: THE ELDER'S RIGHT TO CHOOSE

#### 1. CONSENT REQUIRED UNLESS LACK OF CAPACITY OR INTIMIDATION

By law, the elder must consent to the investigation and to receiving services. If the elder refuses or withdraws consent, then no investigation can occur and no services can be provided *unless* the PSA or other appropriate applicant (in the case of an emergency) has reasonable cause to believe that the elder is suffering from abuse and lacks the capacity to consent to protective services or is refusing to consent because of intimidation or duress.

#### 2. SELF-DETERMINATION IS PARAMOUNT

Elder abuse cases often raise troubling questions about when it is appropriate, helpful, or even ethical for outsiders to intervene in situations which usually occur within the family setting.

To complicate the matter, those working with victims often find themselves interacting with other professionals who approach similar situations from very different points of view. Health and social service providers often see their role as client advocates, protecting the rights and wishes of elder victims. Law enforcement's role, on the other hand, is to enforce society's code of conduct and punish those who violate the law while serving victims of crime. At times, it may seem that those working together on cases are actually at odds or in conflict with one another.

The Executive Office of Elder Affairs and its local affiliates attempt to promote self-determination by upholding an elder's right to autonomy, privacy and informed consent. When interests compete, the adult client is the only person that elder services is charged to serve — not the community or others. Above all, the adult client is in charge of decision-making until the client delegates responsibility voluntarily or the court grants responsibility to another. Protective service workers value their clients' freedom more than safety — that is, a person

may choose to live in harm or even self destructively provided that he or she is competent to choose, does not harm others and commits no crime.

#### 3. PROCEDURE IN THE EVENT OF LACK OF CAPACITY

The PSA may petition the Probate and Family Court for a finding that the elder lacks capacity to consent. The petition must include specific facts in support of that PSA determination. The court decides, based on a preponderance of the evidence, whether the elder has been abused or neglected, needs protective services, lacks the capacity to consent and lacks having another person available, willing and authorized to consent on behalf of the elder.

If the elder lacks capacity and there is no authorized person to consent, the court shall either appoint a Guardian or Conservator to consent to services or shall order the provision of services. In either case, the least restrictive alternatives must be used.

# SIGNS AND INDICATORS OF ABUSE, NEGLECT, AND FINANCIAL EXPLOITATION

## D. TYPICAL SIGNS AND SYMPTOMS

There are no definitive profiles of victims or abusers. There are, however, factors that officers should look for in abuse cases. The following signs may be of value in identifying at-risk relationships, which, when observed in conjunction with indicators of abuse, should trigger further investigation.

### 1. PERSONALITY TRAITS OF ABUSERS

These may include emotional problems, drug and alcohol abuse, or previous psychiatric hospitalization.

### 2. TRANSGENERATIONAL FAMILY VIOLENCE

Adult children who were abused may be abusive to their parents in later life. This cycle of violence possesses elements of retaliation (the chance to get revenge for the abuse) and imitation (repeating the behavior that characterized family interaction).

### 3. WEB OF DEPENDENCY

The lack of an otherwise positive relationship or hostility by the victim or suspect, feelings of resentment, or a caregiver's frustration over the elder's increased dependence on emotional, physical and financial support. Dependency of the caregiver on the elderly person may also exist.

### 4. SOCIAL ISOLATION

Aging and reduced mobility are often accompanied by a loss of contact with friends, family and the outside world. Sometimes a suspect will attempt to maintain the elder in isolation by refusing to apply for economic aid or services and resisting any outside help. Or the suspect may be unreasonably critical of social and health care providers and change them frequently to prevent them from assessing the

elder's situation. Isolation can hide the effects of violence, exploitation and neglect.

### 5. INTERNAL AND EXTERNAL STRESS

Abusive relations between caregivers and elderly victims are often inflamed by economic difficulties, marital conflicts, deaths and illnesses of close friends or relatives, and other stressors. In some cases, aging caregivers may be providing care and/or support to their parents as well as their children. Caregivers who are unaware of outside resources and find themselves unable to cope with overwhelming responsibilities may resort to neglect or abuse.

### 6. OBSTRUCTION OF THE INVESTIGATION

When a suspect unreasonably obstructs the investigation, police should take this as a red flag that abuse may be occurring. Suspects may attempt to speak for the elder, dominate the interview, refuse to allow the elder to be interviewed alone, try to divert the interviewer from the subject, or act defensively.

### 7. BUT, CHARACTERISTICS OF VICTIM NOT A CLUE

Remember, the age, race, religious, economic and educational background of the possible victim are *unrelated* to the level of risk of abuse. Elder abuse is present in any kind of setting.

## E. PHYSICAL ABUSE

### 1. INDICATORS OF PHYSICAL ABUSE

Elderly persons may frequently exhibit signs of falls and accidents. These same signs may be indicators of physical abuse, especially when victims or suspects attempt to conceal their presence or offer inconsistent or irrational excuses for injuries. Sometimes, upon further investigation, police or protective service workers will discover a history of similar injuries and/or suspicious hospitalizations. Investigators should consider the presence of any injury. The following injuries typically indicate abuse and should be considered together with an assessment of the caregiver/victim relationship and other observations.

#### a. Bruises or welts

Older adults bruise more easily than younger people, and they are also at risk for a variety of injuries that lead to bruising. For this reason, it is often difficult to distinguish between bruises and other injuries that are accidental and those that were inflicted.

There are, however, certain types of bruising or situations which may suggest abuse. These include the following:

- (1) *Bilateral bruises* are rarely accidental. These are bruises on both sides of the body — for example, on top of both shoulders, both sides of the face, or insides of both thighs. Bilateral bruising to the arms may indicate that the older person has been shaken, grabbed or restrained. Bilateral bruising of the inner thighs may indicate rape or other types of sexual abuse.
- (2) *"Wrap around" bruises* are also unlikely to be accidental. These are bruises which encircle the older person's arms, legs or torso. They may indicate that the person has been physically restrained.

The shape or location of injuries can tell you a lot. Sometimes you can see pattern marks that resemble the instrument that was used to cause the injury. Rope or strap marks, for example, may indicate inappropriate restraint.

#### b. Burns

(1) Caused by cigarettes, caustics, hot objects.

(2) Fiction from ropes or chains.

#### c. Other injuries or conditions

(1) Fractures, sprains, lacerations and abrasions.

(2) Injuries caused by biting, cutting, poking, punching, whipping or twisting of limbs.

(3) Disorientation, stupor or other effects of deliberate over-medication.

### 2. BEHAVIORAL INDICATORS — THE VICTIM

Indications of abuse are not limited to visible wounds or injuries. The behavior of victims can reflect traits often associated with elder abuse. Presence of these indicators is not conclusive and should serve only to direct the focus of further investigation.

- a. Easily frightened, agitated or trembling
- b. Exhibiting denial
- c. Hesitant to talk openly
- d. Implausible explanations concerning injuries

Often when victims have injuries related to abuse, they are explained as being the result of accidents. By carefully assessing the type of injury and the explanation, it is possible to discover inconsistencies. For example, a

bruise which is explained as the result of an accidental fall may be on a part of the body which is unlikely to sustain impact in a fall.

- e. Confusion or disorientation

### 3. BEHAVIORAL INDICATORS — THE SUSPECT

Individually, none of these indicators constitutes evidence of wrongdoing on the part of a caregiver. However, when one or more indicators are present along with injuries, further investigation is warranted.

- a. Concealment of victim's injuries. For example, the victim is brought to a different facility for treatment each time there is an injury
- b. Inconsistent explanation for victim's injuries. Sometimes several family members provide different explanations of how injuries were sustained.
- c. History of making threats
- d. History of substance or alcohol abuse
- e. Victim of abuse as a child
- f. Dependent on victim's income or assets

## F. SEXUAL ABUSE

### 1. INDICATORS OF SEXUAL ABUSE

Physical indicators of sexual elder abuse should direct investigators to search for other corroborating evidence. Many of these indicators cannot be identified without medical examination. Indicators may include the following:

- a. Torn, stained or bloody underclothing
- b. Genital and/or anal infection, irritation, discharges or bleeding, itching, bruising or pain
- c. Painful urination and/or defecation

- d. Difficulty walking or sitting due to anal or genital pain
- e. Psychosomatic pain such as stomach or headaches
- f. Physical evidence of pornography or prostitution
- g. Sexually transmitted disease

### 2. BEHAVIORAL INDICATORS — THE VICTIM

The embarrassment of recounting forced sexual activity often results in the refusal of an elderly victim to report and describe the crime. The following indicators are often present in (but not limited to) cases of sexual abuse.

- a. Inappropriate, unusual or aggressive behavior or curiosity about sexual matters.
- b. Fecal soiling.
- c. Eating disturbances (overeating or undereating).
- d. Fears, phobias, compulsive behavior.
- e. Thumbsucking, bedwetting, and other regressive behavior
- f. Sleep disorders (nightmares, fear of sleep, excessive sleeping)

### 3. BEHAVIORAL INDICATORS — THE SUSPECT

- a. Overprotectiveness, dominance, hostility toward others
- b. Inappropriate sex-role relationship between victim and suspect
- c. Social isolation

## G. EMOTIONAL ABUSE

### 1. INDICATORS OF EMOTIONAL ABUSE

There is usually a lack of physical evidence in cases of emotional abuse. Often, emotional abuse accompanies other abuse and neglect. Officers should look for:

- a. Signs of inappropriate confinement or restraint
- b. Signs of deprivation of food or hygiene

### 2. BEHAVIORAL INDICATORS - THE VICTIM

Although the presence of the following behavioral indicators may be reflections of abuse, they may also be symptoms of emotional disorders, dementia, or other conditions associated with aging.

- a. Sleep, eating, or speech disorders
- b. Depression
- c. Helplessness or hopelessness
- d. Isolation
- e. Agitation or anger
- f. Confusion
- g. Low self-esteem
- h. Seeks attention and affection

### 3. BEHAVIORAL INDICATORS - THE SUSPECT

Emotional abuse of an elderly person may stem from the suspect's own low self-esteem and his or her unrealistic expectations of the victim. The suspect may exhibit irrational behavior and:

- a. Threaten the victim
- b. Speak poorly of the victim
- c. Ignore the victim's needs

## H. NEGLECT

It is common to observe a combination of indicators when neglect (including self-neglect) exists. Neglect may be found in varying levels and may be recent or long-standing. Care should be taken to photograph and document evidence that will likely change with better care.

There are non-criminal influences (poverty, family background/culture, ignorance) that may contribute to the appearance of neglect but which are consistent with normal living conditions for that elderly person's family. The need for action should be guided by the likelihood of harm to the elderly person if allowed to remain in those conditions. Indicators of neglect include but are not limited to:

- a. Absence of necessities, including food, water, heat
- b. Decubiti (bedsores), skin disorders or rashes
- c. Untreated injuries or medical problems
- d. Signs of health and medication mismanagement - e.g., empty or unmarked bottles or outdated prescriptions, the absence of needed dentures, eyeglasses, hearing aid, walker, wheelchair, or braces
- e. Poor personal hygiene, including soiled clothing, matted or lice-infested hair, odors or presence of feces, dirty nails/skin
- f. Hunger, malnutrition, dehydration (as evidenced by low urinary output, dry, fragile skin, dry, sore mouth, apathy, or lack of energy and mental confusion)
- g. Pallor, sunken eyes or cheeks
- h. Lack of clean bedding or clothing; or the elder's clothing is inappropriate for the weather

- i. Unsanitary or unsafe living conditions (e.g., animal/insect infestations)

## I. FINANCIAL EXPLOITATION

As elderly persons experience decreased mobility (loss of driving ability and personal mobility), they become dependent on others to assist and sometimes take over their financial matters. Although this increases the opportunity for abusive practices, caregivers may have a need to conduct legitimate financial business and handle funds as needed for the care of the person. The presence of the following activities may justify closer examination.

- a. A caregiver overly interested in the victim's financial situation; or with no means of support
- b. Unusual volume of banking activity or activity inconsistent with the victim's ability (e.g., use of ATM by a bedridden victim). Bank statements and cancelled checks no longer come to the elder's home. Suspicious signatures on checks or other documents.
- c. Implausible explanations given about the elderly person's finances by the elder or the caregiver. The elder is unaware of or does not understand financial arrangements that have been supposedly made on the elder's behalf.
- d. Excessive concern by another over the cost of caring for the victim or a reluctance to pay bills
- e. Recent acquaintances expressing interest in the elder's finances, promising to provide assistance or care, or ingratiating themselves to the elder
- f. Recent changes in ownership of the victim's property
- g. A will or other legal document (e.g., a power of attorney) drawn by an older person who did not understand it when signing

- h. Placement, care or possessions of victim inconsistent with the victim's estate; missing items (silver, art, jewelry)
- i. Caregiver isolates the elder from friends and other family
- j. Non-payment of bills leading to eviction notices or threats to discontinue utilities
- k. The quality of the elder's care is inconsistent with the size of the estate
- l. Absence of documentation about financial arrangements.

# **MISCELLANEOUS**

## **HANDOUTS**